

**Executive Summary – Enforcement Matter – Case No. 62994**

**City of Childress**

**RN102328101**

**Docket No. 2022-1577-MSW-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MSW

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Childress Municipal Solid Waste (“MSW”) Landfill, located near the intersection of County Road 16 and U.S. Highway 287, Childress, Childress County

**Type of Operation:**

Type I MSW landfill

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 22, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,688

**Amount Deferred for Expedited Settlement:** \$2,537

**Total Paid to General Revenue:** \$10,151

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 6, 2021 through May 27, 2021 and April 14 through April 21, 2022

**Date(s) of NOE(s):** May 23, 2022

**Executive Summary – Enforcement Matter – Case No. 62994**

**City of Childress**

**RN102328101**

**Docket No. 2022-1577-MSW-E**

***Violation Information***

1. Failed to collect and properly manage windblown solid waste. Specifically, litter was observed scattered throughout the Facility and along the fences [30 TEX. ADMIN. CODE § 330.139 and MSW Permit No. 2263, Section VII.J - Standard Permit Conditions].
2. Failed to conspicuously display at all entrances through which wastes are received signage that states an emergency 24-hour contact phone number that will reach an individual with the authority to obligate the Facility at all times that the Facility is closed. Specifically, a 24-hour contact phone number was not posted on the Facility's signage [30 TEX. ADMIN. CODE § 330.137].
3. Failed to record and retain copies of all records concerning inspections, training procedures, and notification procedures relating to excluding the receipt of prohibited waste. Specifically, the Facility did not maintain the required inspection records for the following: fences and gates, windblown waste, waste spilled on route to the Facility, landfill markers, Facility access roads, daily cover, intermediate cover, final cover, Facility signs, ponded water, odors, records of comprehensive random inspections, or fire extinguisher inspections; additionally, neither the training records concerning fire protection, prohibited waste, and general personnel, nor the prohibited waste records concerning the extraction of chlorofluorocarbons were being maintained [30 TEX. ADMIN. CODE § 330.125(b)(2) and MSW Permit No. 2263, Section III.L - Facility Design, Construction, and Operation].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent modified the signage at the Facility to include a 24-hour contact phone number on November 29, 2021.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Develop and implement a process designed to ensure that all windblown solid waste is collected and properly managed; and
  - ii. Begin maintaining all records concerning inspections, training procedures, and notification procedures relating to excluding the receipt of prohibited waste.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

**Executive Summary – Enforcement Matter – Case No. 62994**  
**City of Childress**  
**RN102328101**  
**Docket No. 2022-1577-MSW-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Eresha DeSilva, Enforcement Division, Enforcement Team 3, MC R-12, (512) 239-5084; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** The Honorable Cary Preston, Mayor, City of Childress, 315 Commerce Street, Childress, Texas 79201

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	31-May-2022			
	<b>PCW</b>	14-Nov-2022	<b>Screening</b>	3-Aug-2022	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Childress
<b>Reg. Ent. Ref. No.</b>	RN102328101
<b>Facility/Site Region</b>	1-Amarillo
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	62994	<b>No. of Violations</b>	3
<b>Docket No.</b>	2022-1577-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Eresha DeSilva
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,750
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for Compliance History.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$62
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$28  
 Estimated Cost of Compliance: \$205  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,688
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$12,688
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$12,688
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$2,537
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$10,151
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Screening Date 3-Aug-2022

Docket No. 2022-1577-MSW-E

PCW

Respondent City of Childress

Policy Revision 5 (January 28, 2021)

Case ID No. 62994

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102328101

Media Municipal Solid Waste

Enf. Coordinator Eresha DeSilva

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

Screening Date 3-Aug-2022

Docket No. 2022-1577-MSW-E

PCW

Respondent City of Childress

Policy Revision 5 (January 28, 2021)

Case ID No. 62994

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102328101

Media Municipal Solid Waste

Enf. Coordinator Eresha DeSilva

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.139 and Municipal Solid Waste ("MSW") Permit No. 2263, Section VII.J- Standard Permit Conditions

Violation Description Failed to collect and properly manage windblown solid waste. Specifically, litter was observed scattered throughout the Facility and along the fences.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR			Harm			
	Release	Major	Moderate	Minor		
	Actual			X	Percent	30.0%
	Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent	0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 104 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	X
annual	
single event	

Violation Base Penalty \$7,500

One semiannual event is recommended from the April 21, 2022 follow-up investigation end date to the August 3, 2022 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

# Economic Benefit Worksheet

**Respondent** City of Childress  
**Case ID No.** 62994  
**Reg. Ent. Reference No.** RN102328101  
**Media Violation No.** Municipal Solid Waste  
 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	6-May-2021	21-Jan-2024	2.71	\$14	n/a	\$14

**Notes for DELAYED costs**  
 Estimated delayed cost to develop and implement a process designed to ensure that all windblown solid waste is collected and properly managed. The Date Required is the initial investigation start date, and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$100

**TOTAL** \$14

**Screening Date** 3-Aug-2022 **Docket No.** 2022-1577-MSW-E **PCW**  
**Respondent** City of Childress *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62994 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN102328101  
**Media** Municipal Solid Waste  
**Enf. Coordinator** Eresha DeSilva

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<b>Percent</b> <input type="text" value="1.0%"/>
<b>Matrix Notes</b>	<input type="text" value="Less than 30% of the rule requirement was not met."/>				

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** City of Childress  
**Case ID No.** 62994  
**Reg. Ent. Reference No.** RN102328101  
**Media Violation No.** Municipal Solid Waste  
 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5	6-May-2021	29-Nov-2021	0.57	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to modify the signage at the Facility to include a 24-hour contact phone number. The Date Required is the initial investigation start date, and the Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$5

**TOTAL**

\$0

**Screening Date** 3-Aug-2022 **Docket No.** 2022-1577-MSW-E **PCW**  
**Respondent** City of Childress *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62994 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN102328101  
**Media** Municipal Solid Waste  
**Enf. Coordinator** Eresha DeSilva

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 330.125(b)(2) and MSW Permit No. 2263, Section III.L-Facility Design, Construction, and Operation  
**Violation Description** Failed to record and retain copies of all records concerning inspections, training procedures, and notification procedures relating to excluding the receipt of prohibited waste. Specifically, the Facility did not maintain the required inspection records for the following: fences and gates, windblown waste, waste spilled on route to the Facility, landfill markers, site access roads, daily cover, intermediate cover, final cover, site signs, ponded water, odors, records of comprehensive random inspections, or fire extinguisher inspections; additionally, neither the training records concerning fire protection, prohibited waste, and general personnel, nor the prohibited waste records concerning the extraction of chlorofluorocarbons were being maintained.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			20.0%

100% of the rule requirement was not met.

**Adjustment** \$20,000

\$5,000

**Violation Events**

Number of Violation Events 1 104 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$5,000

One single event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes: The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$5,000

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$14 **Violation Final Penalty Total** \$5,000

**This violation Final Assessed Penalty (adjusted for limits)** \$5,000

## Economic Benefit Worksheet

**Respondent** City of Childress  
**Case ID No.** 62994  
**Reg. Ent. Reference No.** RN102328101  
**Media Violation No.** Municipal Solid Waste  
 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	6-May-2021	21-Jan-2024	2.71	\$14	n/a	\$14
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated delayed cost to begin maintaining all records concerning inspections, training procedures, and notification procedures relating to excluding the receipt of prohibited waste. The Date Required is the initial investigation start date, and the Final Date is the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$100

**TOTAL** \$14



# Compliance History Report

Compliance History Report for CN600333769, RN102328101, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600333769, City of Childress	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 19.68
<b>Regulated Entity:</b>	RN102328101, City of Childress Municipal Solid Waste Landfill	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	3	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	near the intersection of County Road 16 and United States Highway 287, in Childress, Childress County, Texas		
<b>TCEQ Region:</b>	REGION 01 - AMARILLO		
<b>ID Number(s):</b>	MUNICIPAL SOLID WASTE DISPOSAL PERMIT 2263		
<b>Compliance History Period:</b>	September 01, 2017 to August 31, 2022	<b>Rating Year:</b> 2022	<b>Rating Date:</b> 09/01/2022
<b>Date Compliance History Report Prepared:</b>	August 28, 2023		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	August 28, 2018 to August 28, 2023		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Ken Moller	<b>Phone:</b>	(512) 239-6111

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

## Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**  
N/A
- B. Criminal convictions:**  
N/A
- C. Chronic excessive emissions events:**  
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
Item 1      November 26, 2019      (1611541)  
Item 2      August 26, 2022      (1832990)
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**  
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.  
N/A
- F. Environmental audits:**  
N/A
- G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF CHILDRESS  
RN102328101

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2022-1577-MSW-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Childress (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a Type I municipal solid waste ("MSW") landfill located near the intersection of County Road 16 and United States Highway 287, located in Childress, Childress County, Texas (the "Facility"). The Facility involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$12,688 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$10,151 of the penalty and \$2,537 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent modified the signage at the Facility to include a 24-hour contact phone number on November 29, 2021.

## **II. ALLEGATIONS**

During investigations at the Facility conducted from May 6 through May 27, 2021, and from April 14 through April 21, 2022, an investigator documented that the Respondent:

1. Failed to collect and properly manage windblown solid waste, in violation of 30 TEX. ADMIN. CODE § 330.139 and MSW Permit No. 2263, Section VII.J - Standard Permit Conditions. Specifically, litter was observed scattered throughout the Facility and along the fences.
2. Failed to conspicuously display at all entrances through which wastes are received signage that states an emergency 24-hour contact phone number that will reach an individual with the authority to obligate the Facility at all times that the Facility is closed, in violation of 30 TEX. ADMIN. CODE § 330.137. Specifically, a 24-hour contact phone number was not posted on the Facility's signage.
3. Failed to record and retain copies of all records concerning inspections, training procedures, and notification procedures relating to excluding the receipt of prohibited waste, in violation of 30 TEX. ADMIN. CODE § 330.125(b)(2) and MSW Permit No. 2263, Section III.L - Facility Design, Construction, and Operation. Specifically, the Facility did not maintain the required inspection records for the following: fences and gates, windblown waste, waste spilled on route to the Facility, landfill markers, Facility access roads, daily cover, intermediate cover, final cover, Facility signs, ponded water, odors, records of comprehensive random inspections, or fire extinguisher inspections; additionally, neither the training records concerning fire protection, prohibited waste, and general personnel, nor the prohibited waste records concerning the extraction of chlorofluorocarbons were being maintained.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Childress, Docket No. 2022-1577-MSW-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Develop and implement a process designed to ensure that all windblown solid waste is collected and properly managed, in accordance with 30 TEX. ADMIN. CODE § 330.139; and
    - ii. Begin maintaining all records concerning inspections, training procedures, and notification procedures relating to excluding the receipt of prohibited waste, in accordance with 30 TEX. ADMIN. CODE § 330.125.
  - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

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Date

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For the Executive Director

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Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

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Signature

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Date

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Name (Printed or typed)  
Authorized Representative of  
City of Childress

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Title

If mailing address has changed, please check this box and provide the new address below:

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.