

**Juan Carlos Diaz Amaya**  
RN111697272  
Docket No. 2023-0873-MLM-E

**Order Type:**  
Default Order

**Media:**  
MLM: MSW and Air

**Small Business:**  
No

**Location(s) Where Violation(s) Occurred:**  
354 Country Road 3404, Cleveland, Liberty County (the “Site”)

**Type of Operation:**  
unauthorized municipal solid waste (“MSW”) disposal site

**Other Significant Matters:**  
Additional Pending Enforcement Actions: None  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third Parties: None

**Texas Register Publication Date:** July 26, 2024

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$7,896

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

**Total Due to General Revenue:** \$7,896

**Compliance History Classifications:**  
Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date(s):** January 17, 2023

*Complaint Information:* Concern about smoke in the area

**Date(s) of Investigation:** January 31, 2023

**Date(s) of NOV(s):** March 28, 2023

**Date(s) of NOE(s):** June 30, 2023

**Juan Carlos Diaz Amaya**  
RN111697272  
Docket No. 2023-0873-MLM-E

**Violation Information**

1. Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste (“MSW”) [30 TEX. ADMIN. CODE § 330.15(a) and (c)].
2. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately cease unauthorized disposal of any additional MSW at the Site.
2. Immediately cease all unauthorized burning of MSW at the Site.
3. Within 30 days remove all MSW from the Site and dispose of it at an authorized facility.
4. Within 45 days submit written certification to demonstrate compliance with Technical Requirements 1 through 3.

**Litigation Information**

**Date Petition(s) Filed:** April 29, 2024

**Date(s) of Service:** May 13, 2024

**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Alexander Kepczyk, Litigation Division, (512) 239-3400  
Sheldon Wayne, Office of Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Ramyia Wendt, Enforcement Division, (512)-239-2513

**TCEQ Regional Contact:** Karina Rocha, Houston Regional Office, (713)-767-3500

**Respondent Contact:** Juan Carlos Diaz Amaya, 69 County Road 3402, Cleveland, Texas 77327

**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> | 6-Jul-2023 | <b>Screening</b> | 7-Jul-2023 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 2-Jan-2024 |                  |            |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |                        |
|-----------------------------|------------------------|
| <b>Respondent</b>           | Juan Carlos Diaz Amaya |
| <b>Reg. Ent. Ref. No.</b>   | RN111697272            |
| <b>Facility/Site Region</b> | 12-Houston             |
| <b>Major/Minor Source</b>   | Minor                  |

## CASE INFORMATION

|  |                       |                              |                    |
|--|-----------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 64271                 | <b>No. of Violations</b>     | 2                  |
| <b>Docket No.</b>                      | 2023-0873-MLM-E       | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Municipal Solid Waste | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     | Air                   | <b>Enf. Coordinator</b>      | Ramyia Wendt       |
|  |                       | <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> | \$7,500 |
|---|-------------------|---------|

## 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> | <b>5.0%</b> | <b>Adjustment</b> | <b>Subtotals 2, 3, &amp; 7</b> | \$375 |
|---------------------------|-------------|-------------------|--------------------------------|-------|

|              |   |
|--------------|---|
| <b>Notes</b> | Enhancement for one NOV with same/similar violations. |
|--------------|---|

|                    |    |             |                    |                   |     |
|--------------------|----|-------------|--------------------|-------------------|-----|
| <b>Culpability</b> | No | <b>0.0%</b> | <b>Enhancement</b> | <b>Subtotal 4</b> | \$0 |
|--------------------|----|-------------|--------------------|-------------------|-----|

|              |  |
|--------------|--|
| <b>Notes</b> | The Respondent does not meet the culpability criteria. |
|--------------|--|

|  |                   |     |
|--|-------------------|-----|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$0 |
|--|-------------------|-----|

|                         |             |                     |                   |     |
|-------------------------|-------------|---------------------|-------------------|-----|
| <b>Economic Benefit</b> | <b>0.0%</b> | <b>Enhancement*</b> | <b>Subtotal 6</b> | \$0 |
|-------------------------|-------------|---------------------|-------------------|-----|

|                              |      |                                   |
|------------------------------|------|-----------------------------------|
| Total EB Amounts             | \$23 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$45 |                                   |

|                             |                       |         |
|-----------------------------|-----------------------|---------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$7,875 |
|-----------------------------|-----------------------|---------|

|   |             |                   |      |
|---|-------------|-------------------|------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | <b>0.3%</b> | <b>Adjustment</b> | \$21 |
|---|-------------|-------------------|------|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Enhancement to capture the avoided cost of compliance associated with Violation No. 2. |
|--------------|--|

|                             |         |
|-----------------------------|---------|
| <b>Final Penalty Amount</b> | \$7,896 |
|-----------------------------|---------|

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$7,896 |
|-----------------------------------|-------------------------------|---------|

|                 |             |                  |                   |     |
|-----------------|-------------|------------------|-------------------|-----|
| <b>DEFERRAL</b> | <b>0.0%</b> | <b>Reduction</b> | <b>Adjustment</b> | \$0 |
|-----------------|-------------|------------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |
|--------------|--|

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$7,896 |
|------------------------|---------|

|                                |                        |                   |                 |   |
|--------------------------------|------------------------|-------------------|-----------------|---|
| <b>Screening Date</b>          | 7-Jul-2023             | <b>Docket No.</b> | 2023-0873-MLM-E | <b>PCW</b>                                  |
| <b>Respondent</b>              | Juan Carlos Diaz Amaya |                   |                 | <i>Policy Revision 5 (January 28, 2021)</i> |
| <b>Case ID No.</b>             | 64271                  |                   |                 | <i>PCW Revision February 11, 2021</i>       |
| <b>Reg. Ent. Reference No.</b> | RN111697272            |                   |                 |   |
| <b>Media</b>                   | Municipal Solid Waste  |                   |                 |   |
| <b>Enf. Coordinator</b>        | Ramya Wendt            |                   |                 |   |

### 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> )  | 1      | 5%      |
|                               | 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)** 5%

#### >> 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**

Enhancement for one NOV with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

|                                |   |                                      |                 |            |
|--------------------------------|---|--------------------------------------|-----------------|------------|
| <b>Screening Date</b>          | 7-Jul-2023  | <b>Docket No.</b>                    | 2023-0873-MLM-E | <b>PCW</b> |
| <b>Respondent</b>              | Juan Carlos Diaz Amaya  | Policy Revision 5 (January 28, 2021) |                 |            |
| <b>Case ID No.</b>             | 64271   | PCW Revision February 11, 2021       |                 |            |
| <b>Reg. Ent. Reference No.</b> | RN111697272   |                                      |                 |            |
| <b>Media</b>                   | Municipal Solid Waste   |                                      |                 |            |
| <b>Enf. Coordinator</b>        | Ramyia Wendt  |                                      |                 |            |
| <b>Violation Number</b>        | 1   |                                      |                 |            |
| <b>Rule Cite(s)</b>            | 30 Tex. Admin. Code § 330.15(a) and (c)   |                                      |                 |            |
| <b>Violation Description</b>   | Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 0.698 cubic yards MSW, consisting of treated wood, subwoofer speakers, aluminum cans, and construction debris were disposed of at the Site. |                                      |                 |            |
| <b>Base Penalty</b>            |   |                                      |                 | \$25,000   |

>> Environmental, Property and Human Health Matrix

|           |         |       |          |       |               |
|-----------|---------|-------|----------|-------|---------------|
| OR        |         | Harm  |          |       |               |
|           | Release | Major | Moderate | Minor |               |
|           | Actual  |       |          | x     | Percent 15.0% |
| 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 \$21,250

\$3,750

Violation Events

|                            |   |    |                          |
|----------------------------|---|----|--------------------------|
| Number of Violation Events | 1 | 60 | Number of violation days |
|----------------------------|---|----|--------------------------|

|              |   |                                |
|--------------|---|--------------------------------|
| daily        |   | Violation Base Penalty \$3,750 |
| weekly       |   |                                |
| monthly      |   |                                |
| quarterly    | x |                                |
| semiannual   |   |                                |
| annual       |   |                                |
| single event |   |                                |

One quarterly event is recommended from the May 8, 2023 follow-up investigation date to the July 7, 2023 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 \$3,750

Economic Benefit (EB) for this violation

|   |     |                      |  |
|---|-----|----------------------|--|
| Estimated EB Amount   | \$2 | Statutory Limit Test |  |
| Violation Final Penalty Total                               |     | \$3,948              |  |
| This violation Final Assessed Penalty (adjusted for limits) |     | \$3,948              |  |

# Economic Benefit Worksheet

**Respondent** Juan Carlos Diaz Amaya  
**Case ID No.** 64271  
**Reg. Ent. Reference No.** RN111697272  
**Media** Municipal Solid Waste  
**Violation No.** 1

| 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    |      |             |            | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling        |      |             |            | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal     | \$24 | 31-Jan-2023 | 2-May-2024 | 1.25 | \$2 | n/a | \$2 |
| 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 remove all MSW from the Site and dispose of it at an authorized facility. The Date Required is the initial investigation 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

\$24

TOTAL

\$2

|  |   |  |
|--|---|--|
| <b>Screening Date</b> 7-Jul-2023<br><b>Respondent</b> Juan Carlos Diaz Amaya<br><b>Case ID No.</b> 64271<br><b>Reg. Ent. Reference No.</b> RN111697272<br><b>Media</b> Municipal Solid Waste<br><b>Enf. Coordinator</b> Ramyia Wendt | <b>Docket No.</b> 2023-0873-MLM-E<br><br><b>Base Penalty</b> \$25,000 | <b>PCW</b><br><i>Policy Revision 5 (January 28, 2021)</i><br><i>PCW Revision February 11, 2021</i> |
|--|---|--|

  

|                              |  |  |  |
|------------------------------|--|--|--|
| <b>Violation Number</b>      | 2  | <b>Rule Cite(s)</b>  |  |
|                              |  | 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b) |  |
| <b>Violation Description</b> | Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 0.262 cubic yards of MSW, consisting of treated wood, subwoofer speakers, aluminum cans, and construction debris were burned at the Site. |  |  |

  

**Base Penalty**

\$25,000

  

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

|           |                |   |   |  |   |
|-----------|----------------|---|---|--|---|
| <b>OR</b> |                | <b>Harm</b>   |   |  |   |
|           | <b>Release</b> | Major   | Moderate  | Minor  |   |
|           | Actual         | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div> | <b>Percent</b> <div style="border: 1px solid black; padding: 0 10px;">15.0%</div> |
|           | Potential      | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>                      |   |

  

**>> Programmatic Matrix**

|  |   |   |   |   |  |
|--|---|---|---|---|--|
|  | Falsification   | Major   | Moderate  | Minor   |  |
|  | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> | <b>Percent</b> <div style="border: 1px solid black; padding: 0 10px;">0.0%</div> |

  

|              |  |
|--------------|--|
| 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**

\$21,250

\$3,750

  

**Violation Events**

|                            |  |  |                          |
|----------------------------|--|--|--------------------------|
| Number of Violation Events | <div style="border: 1px solid black; padding: 0 10px;">1</div> | <div style="border: 1px solid black; padding: 0 10px;">1</div> | Number of violation days |
|----------------------------|--|--|--------------------------|

  

|  |              |  |  |
|--|--------------|--|--|
|  | daily        | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>                      | <b>Violation Base Penalty</b> <div style="border: 1px solid black; padding: 0 10px;">\$3,750</div> |
|  | weekly       | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>                      |  |
|  | monthly      | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>                      |  |
|  | quarterly    | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>                      |  |
|  | semiannual   | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>                      |  |
|  | annual       | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>                      |  |
|  | single event | <div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div> |  |

  

One single event is recommended.

  

**Good Faith Efforts to Comply**

|               |  |   |  |
|---------------|--|---|--|
|               | <div style="border: 1px solid black; padding: 0 10px;">0.0%</div>  | <b>Reduction</b>  | <div style="border: 1px solid black; padding: 0 10px;">\$0</div> |
|               | Before NOE/NOV   | NOE/NOV to EDP RP/Settlement Offer                                      |  |
| Extraordinary | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>  | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> |  |
| Ordinary      | <div style="border: 1px solid black; width: 40px; height: 15px;"></div>  | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> |  |
| N/A           | <div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>                                       | <div style="border: 1px solid black; width: 40px; height: 15px;"></div> |  |
| Notes         | <div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div> |   |  |

  

**Violation Subtotal**

\$3,750

  

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

|  |   |                                      |  |
|--|---|--------------------------------------|--|
| <b>Estimated EB Amount</b>   | <div style="border: 1px solid black; padding: 0 10px;">\$21</div> | <b>Violation Final Penalty Total</b> | <div style="border: 1px solid black; padding: 0 10px;">\$3,948</div> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> |   |                                      | <div style="border: 1px solid black; padding: 0 10px;">\$3,948</div> |

# Economic Benefit Worksheet

**Respondent** Juan Carlos Diaz Amaya  
**Case ID No.** 64271  
**Reg. Ent. Reference No.** RN111697272  
**Media** Municipal Solid Waste  
**Violation No.** 2

| 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    |  |  |  | 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)        |  |  |  | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated delayed cost is included in Violation No. 1.

## 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        | \$21 | 30-Jan-2023 | 7-Jul-2023 | 0.43 | \$0 | \$21 | \$21 |
| Other (as needed)             |      |             |            | 0.00 | \$0 | \$0  | \$0  |

Notes for AVOIDED costs

Estimated avoided cost to properly dispose of approximately 0.262 cubic yards of MSW at an authorized facility rather than burning. The Date Required is one day prior to the initial investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$21

**TOTAL**

\$21





# Compliance History Report

Compliance History Report for CN606117547, RN111697272, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN606117547, AMAYA, JUAN CARLOS DIAZ  
**Classification:** SATISFACTORY  
**Rating:** 8.00

**Regulated Entity:** RN111697272, 354 COUNTY ROAD 3404  
**Classification:** SATISFACTORY  
**Rating:** 8.00

**Complexity Points:** 1  
**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 354 County Road 3404 Cleveland, Liberty County, Texas 77327-2582

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**AIR QUALITY NON PERMITTED ID NUMBER**  
R12111697272

**Compliance History Period:** September 01, 2018 to August 31, 2023  
**Rating Year:** 2023  
**Rating Date:** 09/01/2023

**Date Compliance History Report Prepared:** December 28, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 28, 2018 to December 29, 2023

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Ramyia Wendt  
**Phone:** (512) 239-2513

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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.):**  
N/A

### **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.

- 1 Date: 03/28/2023 (1874002)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 111, SubChapter B 111.201  
5C THSC Chapter 382 382.085(b)  
Description: Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, approximately 0.262 cubic yards of

MSW, consisting of treated wood, subwoofer speakers, aluminum cans, and construction debris were burned at the Site.

|              |   |                 |          |
|--------------|---|-----------------|----------|
| Self Report? | NO  | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 330, SubChapter A 330.15(a)<br>30 TAC Chapter 330, SubChapter A 330.15(c)  |                 |          |
| Description: | Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c). Specifically, approximately 0.698 cubic yards of MSW, consisting of treated wood, subwoofer speakers, aluminum cans, and construction debris were disposed of at the Site. |                 |          |

**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  
JUAN CARLOS DIAZ AMAYA;  
RN111697272

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2023-0873-MLM-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Juan Carlos Diaz Amaya ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

### FINDINGS OF FACT

1. Respondent owns and operates an unauthorized municipal solid waste ("MSW") disposal site located at 354 Country Road 3404 in Cleveland, Liberty County, Texas (the "Site"). The Site involves or involved the management of MSW, as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site consists or consisted of one or more sources, as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on and about January 31, 2023, an investigator documented that Respondent:
  - a. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately 0.698 cubic yards of MSW, consisting of treated wood, subwoofer speakers, aluminum cans, and construction debris, were disposed of at the Site; and
  - b. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 0.262 cubic yards of MSW, consisting of treated wood, subwoofer speakers, aluminum cans, and construction debris were burned at the Site.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Juan Carlos Diaz Amaya" (the "EDPRP") in the TCEQ Chief Clerk's office on April 29, 2024.
4. By letter dated April 29, 2024, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on May 13, 2024, as evidenced by the signature on the card.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
3. As evidenced by Finding of Fact No. 2.b., Respondent caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201.
4. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
5. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of \$7,896 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$7,896 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Juan Carlos Diaz Amaya; Docket No. 2023-0873-MLM-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order:
    - i. Cease unauthorized disposal of any additional MSW at the Site; and
    - ii. Cease all unauthorized burning of MSW at the Site.
  - b. Within 30 days after the effective date of this Order, remove all MSW from the Site and dispose of it at an authorized facility.
  - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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 fine and imprisonment for knowing violations.”
4. The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452
5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Respondent.
7. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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.
8. If 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
10. 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.
11. 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.
12. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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For the Commission

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Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF ALEXANDER R. KEPczyk

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Juan Carlos Diaz Amaya' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 29, 2024.

The EDPRP was mailed to Respondent's last known address on April 29, 2024, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on May 13, 2024, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Alexander R. Kepczyk, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,

State of Texas,

on the 8<sup>th</sup> day of July, 2024

*Alexander Kepczyk*

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Declarant