

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 7, 2017

Mr. Burgess Stengle, Manager  
Blue Ridge Landfill TX, LP  
P.O. Box 879  
Fresno, Texas 77545

Re: **Revised Proposed Agreed Order**  
Blue Ridge Landfill TX, LP  
RN102610102; Docket No. 2016-1923-AIR-E; Enforcement Case No. 53555  
**FOR SETTLEMENT PURPOSES ONLY**

Dear Mr. Stengle:

Please find enclosed a revised proposed agreed order based on discussions with Mr. Duncan Norton of Lloyd Gosselink Rochelle & Townsend, P.C., and several representatives of Blue Ridge Landfill TX, LP in conferences held on March 7, 2017, March 21, 2017, and March 31, 2017 and documents submitted on March 22, 2017, March 31, 2017, and April 5, 2017. The following revisions have been made:

1. **Section I (Jurisdiction and Stipulations):** Paragraph No. 4 has been modified to incorporate a Supplemental Environmental Program ("SEP") and Paragraph No. 9 has been amended to recognize additional corrective actions completed at the Site.
2. **Section II (Allegations):** Paragraph No. 2 has been slightly reworded to more accurately state the violation alleged.
3. **Section IV (Ordering Provisions):** The Technical Requirements have been slightly modified and an ordering provision for completion of the aforementioned SEP has been added.
4. **Revised Penalty Calculation Worksheet ("PCW"):** The Economic Benefit Worksheet for Violation No. 1 has been updated with the same additional corrective actions recognized in Paragraph No. 9 of Section I (Jurisdiction and Stipulations) and the violation description of Violation No. 2 has been modified to match the allegation in the order.

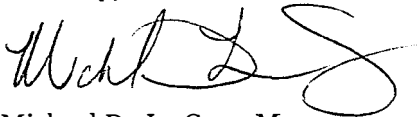
Although this revised order replaces the proposed order enclosed in the Texas Commission on Environmental Quality ("TCEQ") letter dated February 7, 2017, the terms and conditions noted in the February 7, 2017 letter still apply. If you agree with the revised order as proposed, please sign and return this order with an original signature **and** the penalty payment of \$17,485 **before April 8, 2017**, (check payable to "TCEQ" and referencing Blue Ridge Landfill TX, LP, Docket No. 2016-1923-AIR-E) to:

Mr. Burgess Stengle  
Page 2  
April 7, 2017

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

Enclosed for your convenience is a return envelope. Please note that any agreements we reach are subject to final approval by the Commission. For any questions or comments about this matter, please contact Mr. David Carney of my staff at (512) 239-2583.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael De La Cruz". The signature is stylized with a large, looping "M" and "D".

Michael De La Cruz, Manager  
Enforcement Division  
Texas Commission on Environmental Quality

MD/dc

Enclosures: Revised Proposed Agreed Order, Revised PCW, Return Envelope

cc: Mr. Duncan Norton, Principal, Lloyd Gosselink Rochelle & Townsend, P.C., 816  
Congress Avenue, Suite 1900, Austin, Texas 78701

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BLUE RIDGE LANDFILL TX, LP  
RN102610102**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2016-1923-AIR-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 Blue Ridge Landfill TX, LP (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Duncan C. Norton of the Law Firm Lloyd Gosselink Rochelle & Townsend, P.C., together stipulate that:

1. The Respondent owns and operates a landfill located at 2200 Farm-to-Market Road 521 in Fresno, Fort Bend County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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. 382 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 \$43,712 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$17,485 of the penalty and \$8,742 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$17,485 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the

conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

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 implemented the following corrective measures at the Site:
  - a. By May 31, 2016, modified sump systems so that vent lines from condensate sumps are routed back into the sump system;
  - b. By October 3, 2016, installed covers on the leachate tanks and solidification pits;
  - c. By November 30, 2016, completed the expedited expansion and upgrade of the gas collection system; and
  - d. By January 1, 2017, implemented revised surface emissions monitoring and reporting procedures and protocols.

## II. ALLEGATIONS

1. During an investigation conducted from May 4, 2016 through August 18, 2016, an investigator documented that the Respondent failed to prevent nuisance odor conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b). Specifically, during odor surveys conducted off-site, TCEQ staff detected very strong and highly offensive landfill gas/honeysuckle odors on May 4, 2016, May 5, 2016, June 6, 2016, and June 7, 2016; strong and highly offensive landfill gas/honeysuckle odors on May 23, 2016 and May 24, 2016; and moderate and highly offensive landfill gas/honeysuckle odors on June 23, 2016 coming from the Site. TCEQ staff experienced nausea due to the odors on May 4, 2016, May 23, 2016, June 7, 2016,

and June 23, 2016. Based on the weekly frequency of the odors detected, TCEQ staff documented an odor nuisance on May 24, 2016 and June 23, 2016.

2. During an investigation conducted from October 18, 2016 through November 10, 2016, an investigator documented that the Respondent failed to monitor surface concentrations in accordance with 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 60, Subpart WWW, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and 122.143(4), 40 CFR § 60.756(f), Federal Operating Permit No. 01472/Municipal Solid Waste Landfill General Operating Permit No. 517, Permit Tables (c)(20) and (c)(41), and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent conducted and reported surface concentration monitoring at the Site; however, TCEQ staff performed surface concentration monitoring of the Site and determined that the surface concentration monitoring was not performed in accordance with 40 CFR Part 60, Subpart WWW for the quarterly periods from January 1, 2015 through June 30, 2016.

### 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 4. The payment of this penalty and the Respondent's compliance with all of 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: Blue Ridge Landfill TX, LP, Docket No. 2016-1923-AIR-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 implement and complete an SEP as set forth in Section I, Paragraph 4. The amount of \$17,485 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, conduct monitoring of Site operations, in accordance with the revised surface emissions monitoring and

reporting procedures and protocols until the Plan that is approved by the Executive Director is implemented;

- b. Within 30 days after the effective date of this Order, submit a plan to (i) the Air Section Manager of the TCEQ Houston Regional Office and (ii) the TCEQ Order Compliance Team at the respective addresses listed in Ordering Provision No. 3.j, setting forth industry best management practices designed to prevent the emission of odors from all potential sources at the Site (the "Plan"). The Plan shall, at a minimum, include an implementation schedule with milestones, all relevant standard operating procedures, and maintenance practices designed to:
  - i. Minimize odors from, but not limited to:
    - 1. All inactive and active areas at the Site, including the landfill cover;
    - 2. Storage tanks, including the leachate tanks;
    - 3. Solidification pits;
    - 4. Leachate collection and management system; and
    - 5. Landfill Gas Collection and Control System.
  - ii. Monitor for, detect, and respond to potential off-site nuisance odors, including at a minimum:
    - 1. Procedures for conducting 24-hour odor surveillance to include the activation of a 24-hour telephone hotline for odor complaints and continuous 24-hour sulfur monitoring of the property line;
    - 2. Procedures for investigating and timely mitigating odors detected at the property line;
    - 3. Procedures for receiving and documenting reports of odors detected off-site from the public;
    - 4. Procedures for responding promptly to odor complaints including corrective actions to mitigate odor impacts; and
    - 5. Maintaining records of all activities relating to off-site odor impacts, including property line and off-site surveillance, odor reports received from the public, investigative activities to identify the odor source, and all corrective actions taken to mitigate the odor.
  - iii. Comply with the surface emissions monitoring requirements in accordance with 40 CFR Part 60, Subpart WWW by, but not limited to,:

1. Developing and implementing detailed written procedures for monitoring surface concentrations. These procedures shall include a description of how surface concentrations will be measured along the entire perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitoring equipment and shall describe proper probe placement within five to ten centimeters of the ground;
  2. Procedures for ensuring and documenting that 40 CFR Part 60, Appendix A, Method 21 (as modified by Subpart WWW) is followed, including proper calibration of monitoring equipment prior to commencing a surface monitoring activity and use of proper calibration gases;
  3. Developing and implementing a Quality Assurance Project Plan; and
  4. Notifying the TCEQ Houston Regional Office at least 72 hours in advance of each quarterly monitoring event.
- iv. Maintain detailed records of the activities performed to comply with the Plan.
- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information and/or or modification made by the Executive Director concerning the Plan within 10 business days after the date of such request, or by any other deadline specified in writing;
- d. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.j to demonstrate compliance with Ordering Provision No. 3.a;
- e. Upon Executive Director approval of the Plan, begin implementing all provisions of the approved Plan, in accordance with the approved schedule;
- f. Within 60 days after Executive Director approval of the Plan, submit an administratively complete permit modification application to incorporate the approved Plan into the Part IV – Site Operating Plan, Operating Procedures, 4.10 Air Quality and Odor Management Plan in Municipal Solid Waste Permit No. 1505A to:

Waste Permits Division, MC 126  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- g. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit modification application within 30 days after the date of such request, or by any other deadline specified in writing;
- h. Within 75 days after Executive Director approval of the Plan, submit written certification as described in Ordering Provision No. 3.j to demonstrate compliance with Ordering Provision No. 3.f;
- i. Within 30 days after completion of the approved Plan implementation, submit written certification as described in Ordering Provision No. 3.j to demonstrate compliance with Ordering Provision No. 3.e; and
- j. Within 240 days after Executive Director approval of the Plan, submit written certification that the permit modification has been obtained, and include detailed supporting documentation including photographs, receipts, and/or other records. 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:

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

with a copy to:

Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

- 4. All relief not expressly granted in this Order is denied.
- 5. 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 Site operations referenced in this Order.



6. 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.
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 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 Order Compliance Team at the address listed above.
8. 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.
9. 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.
10. 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

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
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 Attorney General's Office 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 Attorney General's Office 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.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
04/07/2017  
Date

\_\_\_\_\_  
Brandon Rogers  
Name (Printed or typed)  
Authorized Representative of  
Blue Ridge Landfill TX, LP

\_\_\_\_\_  
General Manager  
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.

**Attachment A**  
**Docket Number: 2016-1923-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Blue Ridge Landfill TX, LP</b>
<b>Payable Penalty Amount:</b>	<b>\$34,970</b>
<b>SEP Offset Amount:</b>	<b>\$17,485</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Tire Collection Events and Cleanup of Abandoned Tire Sites</i></b>
<b>Location of SEP:</b>	<b>Fort Bend County: Brazos River Basin, Gulf Coast Aquifer</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Tire Collection Events and Cleanup of Abandoned Tire Sites* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with local city and county government officials and private entities (“Partner Entities”) to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling (“Collection Events”), or to clean sites where tires have been disposed of illegally (“Site Cleanups”).

Texas RC&D shall ensure that collected tires, debris, and waste are properly transported to and disposed at an authorized disposal site, and if a licensed hauler is needed for tires or other regulated waste collected from sites, Texas RC&D shall ensure that only properly licensed haulers are used for transport and disposal of tires and regulated wastes. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Blue Ridge Landfill TX, LP  
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide an environmental benefit by providing communities with a free and convenient means for safe and proper disposal of tires and by reducing the dangers and health threats associated with illegally dumped tires.

The health risks associated with illegal dumping are significant. Areas used for illegal tire dumping may be easily accessible to people, especially children, who are vulnerable to the physical hazards posed by abandoned tires. Rodents, insects, and other vermin attracted to dump sites may also pose health risks. Tire dump sites which contain scrap tires pose an ideal breeding ground for mosquitoes, which can breed 100 times faster in the warm, stagnant water standing in scrap tire casings. Severe illnesses, including West Nile Virus, have been attributed to disease-carrying mosquitoes. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of air, surface water, ground water, and soil. In addition, neighborhoods have been evacuated and property damage has been significant due to tire dump sites that caught fire. Illegal tire dumping can also impact drainage of runoff, making areas more susceptible to flooding when wastes block waterways. Open burning at tire dump sites can cause forest fires and erosion as fires burn away trees and undergrowth. Tire dumping has a negative impact on trees and wildlife, and runoff from tire dumpsites may contain chemicals that can contaminate wells and surface water used for drinking.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

Blue Ridge Landfill TX, LP  
Agreed Order - Attachment A

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.  
Attn.: Jerry Pearce, Executive Director  
P.O. Box 2533  
Victoria, Texas 77902

## **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 4 (April 2014)

**Penalty Calculation Worksheet (PCW)**

PCW Revision March 26, 2014

**TCEQ****DATES****Assigned**

9-Jan-2017

**PCW**

6-Apr-2017

**Screening**

13-Jan-2017

**EPA Due****RESPONDENT/FACILITY INFORMATION****Respondent** Blue Ridge Landfill TX, LP**Reg. Ent. Ref. No.** RN102610102**Facility/Site Region** 12-Houston**Major/Minor Source** Major**CASE INFORMATION****Enf./Case ID No.** 53555**Docket No.** 2016-1923-AIR-E**Media Program(s)** Air**Multi-Media****No. of Violations** 2**Order Type** 1660**Government/Non-Profit** No**Enf. Coordinator** David Carney**EC's Team** Enforcement Team 4**Admin. Penalty \$ Limit Minimum**

\$0

**Maximum**

\$25,000

**Penalty Calculation Section****TOTAL BASE PENALTY (Sum of violation base penalties)****Subtotal 1** \$37,500**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History****4.0%****Adjustment****Subtotals 2, 3, & 7**

\$1,500

**Notes**

Enhancement for two NOV with dissimilar violations.

**Culpability**

No

**0.0%****Enhancement****Subtotal 4** \$0**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments****Subtotal 5** \$0**Economic Benefit****Total EB Amounts** \$6,574**Estimated Cost of Compliance** \$40,500**0.0% Enhancement\***

\*Capped at the Total EB \$ Amount

**Subtotal 6** \$0**SUM OF SUBTOTALS 1-7****Final Subtotal** \$39,000**OTHER FACTORS AS JUSTICE MAY REQUIRE****12.1%****Adjustment**

\$4,712

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

Enhancement to capture the avoided cost of compliance associated with Violation No. 2.

**Final Penalty Amount** \$43,712**STATUTORY LIMIT ADJUSTMENT****Final Assessed Penalty**

\$43,712

**DEFERRAL****20.0%****Reduction****Adjustment**

-\$8,742

Reduces the Final Assessed Penalty by the indicated percentage.

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

\$34,970

Screening Date 13-Jan-2017

Docket No. 2016-1923-AIR-E

PCW

Respondent Blue Ridge Landfill TX, LP

Case ID No. 53555

Policy Revision 4 (April 2014)

Reg. Ent. Reference No. RN102610102

PCW Revision March 26, 2014

Media [Statute] Air

Enf. Coordinator David Carney

## Compliance History Worksheet

## &gt;&gt; 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	2	4%
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) 4%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for two NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 4%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 4%



**Screening Date** 8-Jan-2017  
**Respondent** Blue Ridge Landfill TX, LP  
**Case ID No.** 53555  
**Reg. Ent. Reference No.** RN 08002  
**Media [Statute]** A  
**Enf. Coordinator** David Carney  
**Violation Number** 1

**Docket No.** 2016-023-AR-E

**PCW**

Policy Revision 4 (April 2014)  
PCW Revision March 26, 2014

**Rule Cite(s)** 30 Tex. Admin. Code § 014 and Tex. Health & Safety Code § 38.2085(a) and (b)

**Violation Description**

Failed to prevent nuisance odor conditions. Specifically, during odor surveys conducted off-site, TCEQ staff detected very strong and highly offensive landfill gas/honeysuckle odor on May 4, 2016, May 5, 2016, June 6, 2016, and June 7, 2016; strong and highly offensive landfill gas/honeysuckle odors on May 23, 2016 and May 24, 2016; and moderate and highly offensive landfill gas/honeysuckle odors on June 23, 2016 coming from the Site. TCEQ staff experienced nausea due to the odors on May 4, 2016, May 23, 2016, June 7, 2016, and June 23, 2016. Based on the weekly frequency of the odors detected, TCEQ staff documented an odor nuisance on May 24, 2016 and June 23, 2016.

**Base Penalty** \$25,000

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

	Harm		
	Major	Moderate	Minor
Release Actual		x	
Potential			

**Percent** 30.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

**Matrix Notes**

Human health or the environment has been exposed to significant amounts of pollutants.

**Adjustment** \$17,500

\$7,500

**Violation Events**

**Number of Violation Events** 2

2 **Number of violation days**

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$15,000

Two monthly events are 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** \$15,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,790

**Violation Final Penalty Total** \$17,485

**This violation Final Assessed Penalty (adjusted for limits)** \$17,485

# Economic Benefit Worksheet

**Respondent** Blue Ridge Landfill TX, LP  
**Case ID No.** 53555  
**Reg. Ent. Reference No.** RN102610102  
**Media** A  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment	\$1,000	4-May-2016	3-Oct-2016	0.42	\$1	\$28	\$29
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	4-May-2016	31-May-2016	0.07	\$0	\$5	\$5
Engineering/Construction	\$5,000	4-May-2016	30-Nov-2016	0.58	\$10	\$192	\$201
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)	\$25,000	4-May-2016	1-Aug-2017	1.24	\$1,555	n/a	\$1,555

**Notes for DELAYED costs**

Estimated delayed cost to install covers on the leachate tanks and solidification pits (completed by October 3, 2016), to modify sump systems so that vent lines from condensate sumps are routed back into the sump system (completed by May 31, 2016), to complete the expedited expansion and upgrade of the gas collection system (completed November 30, 2016), and to implement measures and/or procedures to minimize odors from the Site. The Dates Required are the initial date of non-compliance and the Final Dates are the dates that installations and modifications were completed and the estimated date of compliance.

<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance **\$32,000**

**TOTAL** **\$1,790**

Screening Date 13-Jan-2017  
Respondent Blue Ridge Landfill TX, LP  
Case ID No. 53555

Docket No. ZC 61923 E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN10210102

Media [Statute] Air

Enf. Coordinator David Carney

Violation Number 2

Rule Cite(s) 30 Tex. Adm. Code §§ 101.20(1) and 122.143(4), 40 Code of Federal Regulations ("CFR") § 60.756(f), Federal Operating Permit No. 01472 General Operating Permit No. 517, Permit Tables (c)(2) and (c)(41), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to monitor surface concentrations in accordance with 40 CFR Part 60, Subpart WWW. Specifically, the Respondent conducted and reported surface concentration monitoring at the Site; however, TCEQ staff performed surface concentration monitoring of the Site and determined that the Respondent did not perform surface concentration monitoring in accordance with 40 CFR Part 60, Subpart WWW for the quarterly periods from January 1, 2015 through June 30, 2016.

Base Penalty \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

### >> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would 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 6

546 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$22,500

Six quarterly events are recommended for the period of non-compliance from January 1, 2015 through June 30, 2016.

### Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$22,500

### Economic Benefit (EB) for this violation

### Statutory Limit Test

Estimated EB Amount \$4,783

Violation Final Penalty Total \$26,227

This violation Final Assessed Penalty (adjusted for limits) \$26,227

## Economic Benefit Worksheet

**Respondent** Blue Ridge Landfill TX, LP  
**Case ID No.** 53555  
**Reg. Ent. Reference No.** RN102610102  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	\$5,000	18-Oct-2016	1-Jan-2017	0.21	\$51	n/a	\$51
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	18-Oct-2016	1-Aug-2017	0.79	\$20	n/a	\$20

**Notes for DELAYED costs**

Estimated costs to monitor surface concentration and to implement revised surface emissions monitoring and reporting procedures and protocols (completed January 1, 2017). The Dates Required are the investigation date and the Final Dates are the date that implementation was completed and the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$3,000	1-Jan-2015	30-Jun-2016	1.50	\$224	\$4,488	\$4,712
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Estimated cost to monitor surface concentrations (\$500/quarter x 6 missed quarters). The Date Required is the first day that quarterly monitoring could have been conducted and the Final Date is the last day that quarterly monitoring could have been conducted.

Approx. Cost of Compliance	\$8,500	<b>TOTAL</b>	\$4,783
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