

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
Dallas, Texas 75270

In the Matter of	§	
	§	
Texana Waste Services LTD	§	Docket No. RCRA-06-2025-0913
	§	
Respondent.	§	

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

1. The U.S. Environmental Protection Agency, Region 6 (“EPA”) is authorized to enter into this Expedited Settlement Agreement (“Agreement”) pursuant to Section 3008 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928 and 40 C.F.R. § 22.13(b).

2. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), EPA has provided notice to the state of Texas of this action.

3. Texana Waste Services LTD (“Respondent”) is the owner or operator of the facility located at 14805 Garrett Rd, Houston, TX 77044 (the “Facility”).

4. The EPA alleges that Respondent violated the following requirements of RCRA, and the EPA approved and authorized Texas hazardous waste management program:

a. Failure to Store Used Oil in Containers in Good Condition

- i. Pursuant to 40 C.F.R. § 279.22(b), containers and aboveground tanks used to store used oil at generator facilities must be (1) in good condition (no severe rusting, apparent structural defects, or deterioration; and (2) not leaking (no visible leaks).

- ii. During the inspection, each of the used oil drums observed were mostly full based on visual observation at the Facility. Drums of used oil were made of plastic, corroded, damaged, opened, and not clearly labeled. There were also drums of used oil made of plastic and covered with a fabric cloth.
- iii. The facility stated that the oil in the 55-gallon drums were derived over the years from oil changes on trucks and tractors owned by Texana Waste Services LTD.

b. Failure to Label or Mark Containers of Used Oil

- i. Pursuant to 40 C.F.R. §279.22(c)(1), containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."
- ii. During the inspection, each of the used oil drums observed at the Facility were mostly full based on visual observation. Drums of used oil made of plastic were corroded, damaged, opened, and not clearly labeled.
- iii. The facility stated that the oil in the 55-gallon drums is not from a vessel but derived over the years from oil changes on trucks and tractors owned by Texana Waste Services.

c. Failure to Label or Mark Universal Waste Batteries

- i. Pursuant to 40 C.F.R. §273.14(a), universal waste batteries (i.e., each battery), or container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."

- ii. During the inspection, an open tote accumulating rainwater and various types of batteries including rechargeable batteries were unlabeled at the Facility.

d. Failure to Demonstrate Accumulation Time Length of Universal Waste Batteries

- i. Pursuant to 40 C.F.R. §273.15(c), a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
- ii. During the inspection, an open tote accumulating rainwater and various types of batteries including rechargeable batteries had an unknown accumulation start date.
- iii. Texana Waste Services LTD did not demonstrate the length of time that the universal waste has been accumulated from the date it became a waste or was received.

5. The EPA and Respondent agree that settlement of this matter for a civil penalty of three thousand seven-hundred fifty dollars (\$3,750.00) is in the public interest. Respondent certifies that it has provided payment for the full civil penalty amount, and that such payment identified Respondent by name and docket number, was made by certified or cashier's check made payable to the "United States Treasury", and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

Respondent certifies that the original Agreement and a true and accurate copy of the deposit for payment was submitted to:

U.S. EPA, Region 6
Enforcement and Compliance Assurance Division (ECDSR)
ATTN: Elizabeth Pham
1201 Elm Street, Suite 500
Dallas, Texas 75270-2102
Pham.elizabeth@epa.gov

6. In signing this Agreement, Respondent: (a) admits that Respondent is subject to RCRA and the implementing regulations; (b) admits that the EPA has jurisdiction over Respondent and Respondent's conduct as alleged herein; (c) neither admits nor denies the factual allegations contained herein; (d) consents to the assessment of this penalty; (e) waives the opportunity for a hearing to contest any issue of fact or law set forth herein; (f) waives its right to appeal the Final Order accompanying this Agreement pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b); and (g) consents to electronic service of the filed ESA.

7. By signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent: (a) has corrected the alleged violations, as applicable, and has submitted true and accurate documentation of such correction along with this Agreement; (b) has submitted payment of the civil penalty as set forth below; and (c) has submitted a true and accurate proof of payment of the civil penalty along with this Agreement.

8. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Expedited Settlement Agreement and Final Order and to execute and legally bind Respondent to it. Upon the effective date of this

Agreement, payment of the civil penalty shall constitute full settlement of the civil claims alleged herein.

9. Full payment of the civil penalty shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. EPA reserves its rights to take enforcement action for any other past, present, or future violations of RCRA, any other federal statute or regulation, or this Agreement.

10. Each party shall bear its own costs and fees, if any.

11. The Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.

12. This Agreement authorized by the EPA's execution of the Final Order attached hereto constitutes a final order under 40 C.F.R. Part 22.

13. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, and local taxes.

14. The EPA and Respondent agree to the use of electronic signatures for this matter pursuant to 40 C.F.R. § 22.6. The EPA and Respondent further agree to electronic service of this Agreement by email to the following:

To EPA: pham.elizabeth@epa.gov

To Respondent: dberry@texanawasteservices.com

RESPONDENT:

Texana Waste Services LTD

Date: 12/19/24

David Berry
Signature

David Berry
Name

OWNER
Title

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

Cheryl T. Seager
Director
Enforcement
and Compliance Assurance Division
U.S. EPA, Region 6

FINAL ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Expedited Settlement Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Expedited Settlement Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

This Final Order shall resolve only those causes of action alleged in the Expedited Settlement Agreement. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondents' (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action.

IT IS SO ORDERED.

Thomas Rucki
Regional Judicial Officer

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Expedited Settlement Agreement and Final Order was filed with me, the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the addressees:

Copy via Email to Complainant, EPA:

mcdonald.ashley@epa.gov
pham.elizabeth@epa.gov

Copy via Email to Respondent:

dberry@texanawasteservices.com
Texana Waste Services LTD
14805 Garrett Rd.
Houston, TX 77044

Regional Hearing Clerk
U.S. EPA, Region 6