

JAL SEP 14 2018  
At 8:52a. M.  
Velva L. Price, District Clerk

No. D-1-GN-18-003931

STATE OF TEXAS,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
WILLIAM P. EASLEY DBA WE	§	
RECYCLE TEXAS,	§	
	§	
Defendant.	§	201 <sup>st</sup> JUDICIAL DISTRICT

**FINAL DEFAULT JUDGMENT AND PERMANENT INJUNCTION**

On this day, Plaintiff, the State of Texas (“State”), on behalf of the Texas Commission on Environmental Quality (“TCEQ”), moved for default judgment after the Defendant, William P. Easley dba We Recycle Texas (“Easley”), failed to file an answer in the above-captioned case. At the hearing, the State appeared through the Attorney General of Texas. The Defendants did not appear.

The Court determined that it has jurisdiction over the subject matter and the parties in this case. After considering the pleadings, the papers on file in this case, and the evidence that the State presented on its attorney’s fees, the Court grants the State’s motion for default judgment.

**THE COURT FINDS:**

1. The State filed its Original Petition and Application for Injunctive Relief (“Original Petition”) on July 31, 2018.
2. On August 6, 2018, the court issued citation for Easley.
3. On August 9, 2018, Easley was properly served with citation and a copy of the Original Petition.



4. The proof of service for Easley was filed with the Court on August 10, 2018, and has been on file with the clerk of the court for at least ten days, excluding the date of filing and today, as required by Rule 107 of the Texas Rules of Civil Procedure.

5. The deadline for Easley to file an answer was September 4, 2018. Easley failed to file an answer, or any pleading constituting an answer, and has not entered an appearance in this cause.

6. Easley's last known address is 2022 Indian Hills Drive, Spring Branch, Comal County, Texas 78070. The State has filed a certificate of Easley's last known address in the records of this cause.

7. Easley is currently not on active military duty as to all branches of the United States military. The State has filed a Service Members' Affidavit in the records of this cause.

8. Easley has failed to answer in this cause and, therefore, has admitted all facts alleged in the State's Original Petition.

9. At all times relevant to the violations in this matter, Easley has operated the facility known as We Recycle Texas located at 13600 US Highway 281 North in Spring Branch, Comal County, Texas (the "Site").

10. In 2014—when Easley began operating "We Recycle Texas" at the Site—the TCEQ started receiving complaints about the discharge of fluids onto the ground, and the storage of junk cars, various 55-gallon drums and scrap metal at the Site.

11. During three investigations conducted in March 2016, March 2018, and September 2018, TCEQ investigators observed that Easley was in violation of multiple state laws and TCEQ rules concerning municipal solid waste, hazardous waste, discharge of waste, and storage of used



oil. Easley refuses to clean up the Site and continues to accept waste at the Site, thus endangering human health and welfare and the environment.

### CIVIL PENALTIES

12. The civil penalties sought in the Original Petition are liquidated and proven by a written instrument that allows the Court to calculate the penalties without the necessity of a hearing. For the purposes of this default judgment, the State stipulates to the minimum civil penalty allowed by the Texas Water Code of \$50 per day.

13. The State stipulates to ending the Court's inquiry into Easley's violations of TCEQ rules for the purposes of this default judgment to the date the State filed its Original Petition in this cause, July 31, 2018. This default judgment does not preclude the State from seeking statutory penalties, administrative or civil, for the violations of the TCEQ's rules that occur after the date the State filed its Original Petition. Further, this default judgment does not resolve or dispose of any potential claims against any party other than Easley regarding statutory penalties, administrative or civil, for the violations of the TCEQ's rules at the Site.

14. From at least March 29, 2016, the date of the TCEQ's first investigation of the Site, to July 31, 2018, the date that the State filed its Original Petition, Easley has caused, suffered, allowed, or permitted the Site to remain in violation of TCEQ rules regarding the unauthorized storage of municipal solid waste at the Site.

15. The State stipulates to the starting date of March 29, 2016, the date the TCEQ conducted its first investigation of the Site, for purposes of calculating the dates of violation for this default judgment. Therefore, the Court further finds that Easley has violated TCEQ rules regarding the unauthorized storage of municipal solid waste at the Site for a total of at least 854



days, from March 29, 2016, to July 31, 2018, and that the State is entitled to civil penalties for such violations.

16. The Court finds that Easley has been in continuous violation of 30 Tex. Admin. Code §§ 324.1, 330.7(a) and (c), 335.2, 335.4, 335.62, 335.503, 335.504, Texas Water Code §§ 7.101 and 26.121(a), as well as 40 CFR § 279.22(c)(1). Therefore, the State is entitled to injunctive relief to prevent violations or threatened continued violations and to obtain appropriate corrective actions.

### **ATTORNEY'S FEES**

17. This is an action brought by the State to recover civil penalties and obtain injunctive relief. The State requested attorney's fees as permitted by Tex. Water Code § 7.108. The State offered evidence through an attorney's fees affidavit, filed in the records of this cause, proving reasonable and necessary attorney's fees in the amount of \$15,625.00.

### **INTEREST**

18. The Court further finds that the applicable judgment interest rate for the date of this judgment, as published by the Texas Office of Consumer Credit in accordance with Texas Finance Code § 304.003, is five percent.

19. The Court further finds that the penalties assessed herein are payable to and for the benefit of a government unit and are not compensation for actual pecuniary loss, and therefore, are not dischargeable under federal bankruptcy laws.

### **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:**

20. Easley is liable to the State for a civil penalty of FIFTY DOLLARS (\$50.00) per day of each violation in accordance with Texas Water Code § 7.102.



21. The State, therefore, shall have judgment against Easley for civil penalties for his violations of TCEQ rules in the amount of FOURTY TWO THOUSAND SEVEN HUNDRED DOLLARS (\$42,700.00), which constitutes 854 days of violations at \$50.00 per day.

22. The State shall also have judgment against Easley for its attorney's fees in the amount of FIFTEEN THOUSAND SIX HUNDRED AND TWENTY-FIVE DOLLARS (\$15,625.00).

23. Easley shall pay all costs of court incurred through the date of this Default Judgment and those court costs which may be incurred to collect this Default Judgment if necessary.

24. Easley shall pay post-judgment interest on all amounts awarded under this Default Judgment and continually thereafter at the legal rate of five percent, as published by the Texas Office of Consumer Credit in accordance with the Texas Finance Code § 304.003, from the date of this judgment until paid in full, all for which execution shall issue.

25. Easley shall pay all amounts awarded in this Default Judgment within sixty (60) days of the entry of this Default Judgment.

26. Payment of all amounts awarded in this Default Judgment shall be made by certified check or money order made payable to the State of Texas and shall bear the identifying number "A.G. # CX3926205853" The payment shall be submitted to:

Division Chief  
Environmental Protection Division  
Office of the Attorney General of Texas  
P.O. Box 12548, MC-066  
Austin, Texas 78711-2548



**THE COURT FURTHER ORDERS THAT:**

**PERMANENT INJUNCTION**

27. The Defendant, William P. Easley dba We Recycle Texas, his officers, agents, servants, employees, and all other persons acting in concert or participation with him, on his behalf, or under his control, who receive actual notice of this Injunction are permanently enjoined as follows:

**A. Words and Terms:**

1. "Easley" means Defendant William P. Easley d/b/a We Recycle Texas and his agents, employees, and all persons in active concert or participation with him.
2. "Site" means the property located at 13600 US Highway 281 North in Spring Branch, Comal County, Texas.
3. "TCEQ" means the Texas Commission on Environmental Quality.
4. "Effective Date" means the date the Court signs this Injunction. "Solid Waste" means any discard material, as further defined in 30 Tex. Admin. Code § 330.3(145). It includes but is not limited to household rubbish; automotive materials; construction and demolition debris; commercial and/or industrial materials like compressed gas cylinders; containers or drums with oil, petroleum substances, paint substances or any other substances; plastics or plastic boxes; empty drums or containers; cardboard or wood pieces; fluorescent lights; or cathode ray tubes.
5. "Solid Waste" means any discard material, as further defined in 30 Tex. Admin. Code § 330.3(145). It includes but is not limited to household rubbish; automotive materials; construction and demolition debris; commercial and/or industrial materials like compressed gas cylinders; containers or drums with oil, petroleum substances, paint substances or any other substances; plastics or plastic boxes; empty drums or containers; cardboard or wood pieces; fluorescent lights; or cathode ray tubes.
6. "Hazardous Waste" means any Solid Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency in accordance with federal statutes, including but not limited to, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§ 6901, *et seq.*



**B. Ordering Provisions:**

1. Cease Accepting Solid Waste at the Site. Immediately upon the Effective Date of this Injunction, Easley shall cease disposing of, storing, processing or accepting any additional Solid Waste or Hazardous Waste at the Site. Easley shall not accept any additional material at the Site for processing, storage or disposal regardless of whether the material can be recycled.
2. Cease the Release/Discharge of Used Oil and Other Waste. Immediately upon the Effective Date of this Injunction, Easley shall cease the release and/or discharge of used oil and other petroleum, paint substances, and other Solid Waste or Hazardous Waste at the Site.
3. Conduct Waste Determination and Waste Classification. Within five (5) Days of the Effective Date of this Injunction, Easley shall begin conducting waste determinations and waste classifications on all Solid Waste and Hazardous Waste at the Site, in accordance with 30 TAC §§ 335.62, 335.503, 335.504, and 40 C.F.R. § 262.11. Within 60 Days of the Effective Date of this Injunction, Easley shall complete waste determinations and waste classifications on all Solid Waste and Hazardous Waste at the Site, and shall send supporting documentation to the TCEQ to demonstrate compliance with this provision.
4. Remove All Waste Located Outside of the Fence at the Site.
  - i. Within ten (10) Days of the Effective Date of this Injunction, Easley shall package and label for disposal any Hazardous Waste located outside of the fence at the Site and on the frontage and/or right-of-way of US Highway 281 in accordance with all applicable TCEQ regulations, including, but not limited to, 30 Tex. Admin. Code §§ 335.65-.68. Within fifteen (15) Days of the Effective Date of this Injunction, Easley shall dispose of all Hazardous Waste located outside of the fence at the Site and on the frontage and/or right-of-way of US Highway 281 at a TCEQ-permitted Hazardous Waste disposal facility.
  - ii. Within fifteen (15) Days of the Effective Date of this Injunction, Easley shall remove all remaining non-hazardous Solid Waste located outside of the fence at the Site and on the frontage and/or right-of-way of US Highway 281 and dispose of it at a TCEQ-permitted Solid Waste disposal facility.
5. Remove Waste with Potential to Discharge or Leach onto the Ground.
  - i. Within thirty (30) Days of the Effective Date of this Injunction, Easley shall package and label for disposal all Hazardous Waste at the Site with potential discharge or leach into the ground.



accordance with all applicable TCEQ regulations, including, but not limited to, 30 Tex. Admin. Code §§ 335.65-.68. Within forty-five (45) Days of the Effective Date of this Injunction, Easley shall remove all Hazardous Waste with potential discharge or leach into the ground, including, but not limited to, fluorescent light tubes, car batteries, compressed gas cylinders, old television screens and cathode ray tubes, and used oils from the Site and dispose of it at a TCEQ-permitted Hazardous Waste disposal facility.

- ii. Within forty-five (45) Days of the Effective Date of this Injunction, Easley shall remove all remaining non-hazardous Solid Waste with potential discharge or leach into the ground from the Site and dispose of it at a TCEQ-permitted Solid Waste disposal facility.
- iii. Within sixty (60) Days of the Effective Date of this Injunction, Easley shall send documentation to TCEQ including receipts, photographs, and other evidence demonstrating compliance with this provision.

6. Remove all Waste at the Site.

- i. Within ninety (90) Days of the Effective Date of this Injunction, Easley shall package and label for disposal all Hazardous Waste at the Site in accordance with all applicable TCEQ regulations, including, but not limited to, 30 Tex. Admin. Code §§ 335.65-.68. Within one hundred and five (105) Days of the Effective Date of this Injunction, Easley shall remove all Hazardous Waste from the Site and dispose of it at a TCEQ-permitted Hazardous Waste disposal facility.
- ii. Within one hundred and five (105) Days of the Effective Date of this Injunction, Easley shall remove all remaining non-hazardous Solid Waste from the Site and dispose of it at a TCEQ-permitted Solid Waste disposal facility.
- iii. Within one hundred and twenty (120) Days of the Effective Date of this Injunction, Easley shall send documentation to TCEQ including receipts, photographs, and other evidence demonstrating compliance with this provision.

7. Begin Site Remediation

- i. Within thirty (30) days of the Effective Date of this Injunction, Easley shall commence an affected property assessment of the Site to determine the lateral and vertical extent of Hazardous Waste and non-hazardous Solid Waste released to the environment.





affected property assessment of the Site shall include classifying groundwater, determining land use, using analytical methods appropriate for the detection of spilled Hazardous Waste and non-hazardous Solid Waste at the Site, and notifying owners of property from which samples are collected, in accordance with the requirements of 30 Tex. Admin. Code Chapter 350, Subchapter.

- ii. As part of the affected property assessment, Easley shall determine critical protective concentration levels in accordance with the requirements of 30 Tex. Admin. Code Chapter 350, Subchapter D for use in delineating the extent of environmental media exceeding the critical protective concentration levels for which a response action will be required to render the Site protective of human health and the environment.
- iii. Within one hundred and eighty (180) days of the Effective Date of this Injunction, Easley shall submit an administratively and technically complete Affected Property Assessment Report ("APAR") using TCEQ Form 10325/APAR,<sup>1</sup> in accordance with the requirements of 30 Tex. Admin. Code § 350.91, to TCEQ for review and approval.
- iv. Within sixty (60) days of the date TCEQ approves the APAR, Easley shall submit the administratively and technically complete response action plan ("RAP") using TCEQ Form 10326,<sup>2</sup> in accordance with the requirements of 30 Tex. Admin. Code § 350.94, to TCEQ for review and approval. Easley shall use the results of the APAR to develop a RAP that is capable of attaining the response objectives of 30 Tex. Admin. Code Chapter 350, Subchapter B. Easley shall propose in the RAP detailed plans to attain either Remedy Standard A or Remedy Standard B at the Site. The RAP shall include a schedule for completion of each intermediate action in the RAP. The deadline for completion of the response action in the RAP shall be no later than one hundred and eighty (180) days after the date the TCEQ approves the RAP, unless extended by the TCEQ.
- v. Easley shall complete the response action in the RAP by the deadline listed in the approved RAP. All response actions in the RAP shall be completed in accordance with the requirements of 30 Tex. Admin. Code Chapter 350.
- vi. Within ninety (90) days of the approved date for completion of the response action, Easley shall submit an administratively and

<sup>1</sup> TCEQ Form 10325 may be obtained from TCEQ or at: [www.tceq.texas.gov/cgi-bin/comm\\_exec/forms.pl](http://www.tceq.texas.gov/cgi-bin/comm_exec/forms.pl).

<sup>2</sup> TCEQ Form 10326 may be obtained from TCEQ or at: [www.tceq.texas.gov/cgi-bin/comm\\_exec/forms.pl](http://www.tceq.texas.gov/cgi-bin/comm_exec/forms.pl).



technically complete Response Action Completion Report (“RACR”) using TCEQ Form 10328/RACR,<sup>3</sup> in accordance with the requirements of 30 Tex. Admin. Code § 350.95, to TCEQ for review and approval.

- vii. In the event TCEQ does not approve the APAR, RAP, RACR, or any other report or documentation submitted by Easley pursuant to this Injunction, Templeton shall revise the documentation in accordance with TCEQ’s instructions and resubmit the material to TCEQ for review and approval within thirty (30) days of TCEQ’s notification that the documentation is unsatisfactory.
  - viii. Easley shall comply with all applicable limitations or regulations in the event he elects to develop and implement a RAP under Remedy Standard B, in accordance with the requirements of 30 Tex. Admin. Code Chapter 350, Subchapter B, such as but not limited to post-response action care requirements, financial assurance, and institutional controls and reporting requirements.
8. All submissions required or authorized to be submitted to the TCEQ by this Injunction, shall be submitted in writing to:

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

with copies to:

Ian Lancaster, Assistant Attorney General  
Re: AG # CX3926205853  
Office of the Attorney General  
Environmental Protection Division  
P.O. Box 12548, MC-066  
Austin, Texas 78711-2548

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<sup>3</sup> TCEQ Form 10328 may be obtained from TCEQ or at: [www.tceq.texas.gov/cgi-bin/comm\\_exec/forms.pl](http://www.tceq.texas.gov/cgi-bin/comm_exec/forms.pl).



**THE COURT FURTHER ORDERS:**

1. The effective date of this judgment is the date it is signed by the Judge Presiding.
2. The Clerk of this Court shall issue a writ of permanent injunction against Easley, his officers, agents, servants, employees, and all other persons acting in concert or participation with Easley, as set forth above.
3. The Court orders execution to issue for this judgment.
4. The State shall be allowed such writs and processes as may be necessary in the enforcement and collection of this judgment.
5. This Default Judgment does not dispose of any claims against any parties other than Easley.
6. All relief not expressly granted herein is denied. This Default Judgment finally disposes all claims against Easley and is appealable.

SIGNED this 14<sup>th</sup> day of September, 2018.

  
\_\_\_\_\_  
JUDGE PRESIDING  
Hon. Dustin Howell

ENTRY REQUESTED BY:

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER



First Assistant Attorney General

BRANTLEY STARR

Deputy First Assistant Attorney General

JAMES E. DAVIS

Deputy Attorney General for Civil Litigation

PRISCILLA M. HUBENAK

Chief, Environmental Protection Division

  
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ATTORNEYS FOR THE STATE OF TEXAS

I, VELVA L. PRICE, District Clerk,  
Travis County, Texas, do hereby certify that this is  
a true and correct copy as same appears of  
record in my office. Witness my hand and seal of  
office on \_\_\_\_\_

9-17-18



VELVA L. PRICE

DISTRICT CLERK

By Deputy:

*Jessica A. Limon*

