

SEP 29 2016 SC

Cause No. D-1-GN-16-003942

At 9:40 A.M.
Velva L. Price, District Clerk

STATE OF TEXAS,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	OF TRAVIS COUNTY, TEXAS
	§	
ECLIPSE RENEWABLES, LLC,	§	
	§	
Defendant.	§	126TH JUDICIAL DISTRICT

TEMPORARY INJUNCTION

On this day, the State of Texas ("State"), Plaintiff in the above-entitled and numbered cause, presented to the Court its application for temporary injunction. The State of Texas appeared through Texas Attorney General Ken Paxton, on behalf of the people of Texas and the Texas Commission on Environmental Quality ("TCEQ" or "Commission"). The Defendant, Eclipse Renewables, LLC ("Eclipse"), having been formally served with a court order to appear and show cause why a temporary injunction should not be issued as requested in the State's petition, failed to appear. The Court, having considered the contents of Plaintiff's verified petition, and after hearing and considering the testimony and evidence, is of the opinion that Defendant Eclipse has violated the Texas Solid Waste Disposal Act, Chapter 361, Texas Health and Safety Code, and rules promulgated thereunder by the Texas Commission on Environmental Quality, pertaining to the Defendant's tire storage facility located at 11150 Applewhite Road, San Antonio, Bexar County, Texas.

The Court finds that this temporary injunction is proper and necessary to enforce the Texas Solid Waste Disposal Act, and rules promulgated thereunder by the TCEQ, relating to the prevention of public nuisance conditions and health hazards at the Defendant's tire storage facility located at 11150 Applewhite Road, San Antonio, Bexar County, Texas.

I.

IT IS THEREFORE ORDERED by this Court that Eclipse Renewables, LLC, its agents, employees, and all persons in active concert or participation with them, are temporarily enjoined as follows regarding the subject property located at 11150 Applewhite Road, San Antonio, Texas:

a. Immediately, after the signing of this injunction by the Court, Eclipse shall cease transporting tires and tire pieces until compliance with TCEQ rules and regulations is demonstrated, with the exception that removal and transportation of tires from the subject property site to an authorized end use facility is permitted;

b. Immediately cease processing, depositing or disposing of tires at the subject property, or at any other site that does not have a scrap tire storage site registration from the TCEQ;

c. Immediately abate nuisance conditions at the subject property, including cutting the grass, removing brush near tires and controlling vectors;

d. Immediately, secure the subject property to prevent unauthorized access or disposal of solid waste;

e. No later than 60 days after the signing of this injunction by the Court, Eclipse shall remove 1,000 tons of tires and/or tire pieces from the subject property and transport the tires and/or tire pieces to an authorized end use facility;

f. No later than 90 days after the signing of this injunction by the Court, Eclipse shall remove an additional 1,000 tons (a total of 2,000 tons) of tires and/or tire pieces from the subject property and transport the tires and/or tire pieces to an authorized end use facility;

g. No later than 120 days after the signing of this injunction by the Court, Eclipse shall remove an additional 1,000 tons (a total of 3,000 tons) of tires and/or tire pieces from the subject property and transport the tires and/or tire pieces to an authorized end use facility;

h. No later than 180 days after the signing of this injunction by the Court, Eclipse shall remove and transport all tires located at the subject property to an authorized end use facility, except for 500 tires on the ground (or weight equivalent in tire pieces) or 2,000 tires stored in locked containers (or weight equivalent in tire pieces);

i. For tires and/or tire pieces removed from the subject property, Eclipse shall provide the TCEQ with written verification from an authorized end use facility demonstrating the number of tires in each load or the weight of tires and/or tire pieces of

each load delivered to the facility for disposal or processing. Eclipse shall also maintain a manifest record for each individual collection and delivery of tires and/or tire pieces to an authorized end use facility in accordance with 30 Tex. Admin. Code § 328.58. Eclipse shall send the written verification from the authorized end use facility in addition to manifest records to the TCEQ every Monday, documenting activities for the prior week.

Eclipse shall send documentation to the following address:

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

With copies to:

Cameron Lopez, Waste Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas 78223-4480

and

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

j. During the period in which tires and tire pieces are being removed from the subject property, Eclipse shall monitor scrap tires and tire pieces for vectors and utilize

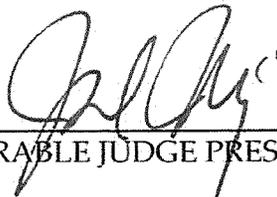
appropriate vector and mosquito control measures at least every two weeks to control vectors and mosquitos;

k. During the period in which tires and tire pieces are being removed from the subject property site, Eclipse shall mow and cut vegetation on the property at least once every other week.

II.

IT IS FURTHER ORDERED that, as required by Rule 683 of the Texas Rules of Civil Procedure, this case is set for trial on the merits on the 6th day of February, 2017, at 9:00 a.m., on the central settings docket.

SIGNED this 29 day of September, 2016.



HONORABLE JUDGE PRESIDING