

NATIONAL RESPONSE CENTER 1-800-424-8802

*** For Public Use ***

Information released to a third party shall comply with any applicable federal and/or state Freedom of Information and Privacy Laws

Incident Report # 1187161

INCIDENT DESCRIPTION

*Report taken at 13:04 on 14-AUG-17

Incident Type: FIXED

Incident Cause: DUMPING

Affected Area:

Incident was discovered on 01-SEP-16 at 10:00 local incident time.

Affected Medium: SOIL SOIL

SUSPECTED RESPONSIBLE PARTY

HOUSTON, TX 77028

Type of Organization: PRIVATE CITIZEN

INCIDENT LOCATION

7012 BANYAN STREET County: HARRIS

City: HOUSTON State: TX Zip: 77028

RELEASED MATERIAL(S)

CHRIS Code: NCC Official Material Name: NO CHRIS CODE

Also Known As: PAINT WASTE

Qty Released: 0 UNKNOWN AMOUNT

CHRIS Code: TOL Official Material Name: TOLUENE

Also Known As:

Qty Released: 0 UNKNOWN AMOUNT

CHRIS Code: XLX Official Material Name: XYLENE (O-, M-, P-, & MIXTURES)

Also Known As:

Qty Released: 0 UNKNOWN AMOUNT

DESCRIPTION OF INCIDENT

A CALLER REPORTED A DISCOVERY OF APPX. 10 OR MORE 55 GALLON METAL DRUMS IN A PRIVATE RESIDENCE. THE CALLER STATED SOME OF THE DRUMS LEAKED AND RELEASE AN UNKNOWN AMOUNT OF SUSPECTED PAINT WASTE, XYLENE AND TOLUENE ONTO A SOIL.

INCIDENT DETAILS

Package: N/A

Building ID:
Type of Fixed Object: PRIVATE RESIDENCE
Power Generating Facility: NO
Generating Capacity:
Type of Fuel:
NPDES:
NPDES Compliance: UNKNOWN

IMPACT

Fire Involved: NO Fire Extinguished: UNKNOWN

INJURIES: NO Hospitalized: Empl/Crew: Passenger:
FATALITIES: NO Empl/Crew: Passenger: Occupant:
EVACUATIONS:NO Who Evacuated: Radius/Area:

Damages: NO

Closure Type	Description of Closure	Hours	Direction of	Closed	Closure
N					

Air:

N			Major		
Road:			Artery:N		

N

Waterway:

N

Track:

Environmental Impact: UNKNOWN

Media Interest: UNKNOWN Community Impact due to Material:

REMEDIAL ACTIONS

Release Secured: UNKNOWN

Release Rate:

Estimated Release Duration:

WEATHER

ADDITIONAL AGENCIES NOTIFIED

Federal:

State/Local: TCQ

State/Local On Scene:

State Agency Number:

NOTIFICATIONS BY NRC

CENTERS FOR DISEASE CONTROL (GRASP)
14-AUG-17 13:20
CGIS HOUSTON (SPECIAL AGENT CGIS)
14-AUG-17 13:20
DHS DEFENSE THREAT REDUCTION AGENCY (CHEMICAL AND BIOLOGICAL TECHNOLOGI
14-AUG-17 13:20
DHS TEXAS FUSION CENTER (INTELLIGENCE OFFICERS)
14-AUG-17 13:20
DOT CRISIS MANAGEMENT CENTER (MAIN OFFICE)
14-AUG-17 13:20
U.S. EPA VI (MAIN OFFICE)

HOUSTON POLICE DEPARTMENT (CRIMINAL INTELLIGENCE DIVISION)
14-AUG-17 13:20
JFO-LA (COMMAND CENTER)
14-AUG-17 13:20
NATIONAL INFRASTRUCTURE COORD CTR (MAIN OFFICE)
14-AUG-17 13:20
NOAA RPTS FOR TX (MAIN OFFICE)
14-AUG-17 13:20
NATIONAL RESPONSE CENTER HQ (AUTOMATIC REPORTS)
14-AUG-17 13:20
PORT OF HOUSTON AUTH POLICE DEPT (POLICE DEPARTMENT)
14-AUG-17 13:20
REPORTING PARTY (RP SUBMITTER)
14-AUG-17 13:20
SAN ANTONIO POLICE DEPT (SOUTHWEST FUSION CENTER (SWFC))
14-AUG-17 13:20
TCEQ (MAIN OFFICE)
14-AUG-17 13:20
TCEQ (REGION 12)
14-AUG-17 13:20
DEPT OF ENERGY STPR (STRATEGIC PETROLEUM RESERVE-EMERGENCY MGMT)
14-AUG-17 13:20
TEXAS FUSION CENTER (COUNTER TERRORISM)
14-AUG-17 13:20
TX GENERAL LAND OFFICE (TXGLO REGION 2)
14-AUG-17 13:20
TEXAS STATE OPERATIONS CENTER (COMMAND CENTER)
14-AUG-17 13:20
USCG DISTRICT 8 (MAIN OFFICE)
14-AUG-17 13:20
USCG DISTRICT 8 (PLANNING)
14-AUG-17 13:20
U.S. FISH AND WILDLIFE (REGION 2 SPILL RESPONSE COORDINATOR)
14-AUG-17 13:20

ADDITIONAL INFORMATION

**THE CALLER STATED THAT THE DRUMS COULD'VE BEEN THERE SINCE 1990S.

*** END INCIDENT REPORT #1187161 ***

Report any problems by calling 1-800-424-8802

PLEASE VISIT OUR WEB SITE AT <http://www.nrc.uscg.mil>

Office of Enforcement and Compliance Assurance U.S. Environmental Protection Agency 1200
Pennsylvania Ave., N.W. Washington, D.C. 20460

Report an Environmental Violation - Information submitted (Filed 08/10/2017)

Thank you for submitting information on a possible environmental violation. The information will be reviewed by EPA enforcement personnel.

This notice will be the only response you will receive regarding your submission. Due to the sensitive manner in which enforcement information must be managed by EPA, **we can not provide status reports or updates regarding any submission** we receive through the Report an Environmental Violation form.

[Back to Report an Environmental Violation page](#)

Your Name:	Bill Smalling
Your Email:	bsmalling@billsmallinglaw.com
Your Address:	1700 Post Oak Blvd, 2 BLVD Place, Ste. 600
Your City:	Houston
Your State:	Texas
Your Zip:	77056
Your Phone:	713-513-7153

Suspected Violation Date:	01/01/1995
Suspected Violator Name:	Delores Barnes
Suspected Violator Address:	7012 Banyan
Suspected Violator City:	Houston
Suspected Violator State:	Texas
Suspected Violator Zip:	77028
Still Occurring:	no
Notified State DEP/DEQ/DEM:	yes

Department Contact:	TCEQ
Characterized incident as:	
Intent:	Intentional
Type:	Dump/Buried
Media:	Air
Media:	Land
Media:	Water
Entity:	Individual
Description of incident or hazard:	<p>* Please describe the incident or hazard in as much detail as possible. Use descriptive terms, such as gas drilling, drum dumping, tank truck discharging into drain, fish kill, leaking containers, Biosolids, etc., and if the alleged environmental violation has been recorded via video or photographs please include that fact in your description: (text will wrap automatically) 4.1. This petition is for any and all waste characterization, clean-up, disposal and labor for the clean-up of the property located at 7012 Banyan Street, Houston, Texas 77028, Lot 7, Block 4, Houston Gardens Addition, City of</p>

Houston County of Harris, Texas known as 7012 Banyan St, Houston, Texas 77028 that violator sold to Ms. Celestine Holcomb on or about August 3, 2016. 4.2 The following is intended to summarize the preliminary environmental findings relative to the lot in question. Some of the materials requiring clean-up are not visible such as including, but not limited, to: (1) waste paint and (2) 55-gallon drums with unknown contents (probably paint, solvent, and other types of hazardous wastes). These apparently are wastes from some type of prior painting business, such as an automobile body shop. This material is buried beneath the dirt and debris located in the right rear corner of the lot. Similar wastes may also be buried in other locations on the lot. 4.3 The clean-up will require a licensed environmental firm to perform the initial testing, waste clean-up, and final testing. The removed waste must be properly manifested and hauled off to a licensed hazardous waste disposal site. In addition, the lot must be restored to the specifications as prescribed by the U.S. Environmental Protection Agency (“EPA”) and the Texas Commission on Environmental Quality (“TCEQ”) regulations. These EPA and TCEQ certifications will likely require environmental testing and a series of technical reports to these agencies. 4.4 Pipes, tires, various types of metal equipment, concrete and debris are dumped on the lot. These materials must be removed as well. 4.5 At various times, violator discharged or released harmful substances, including cancer-causing agents, into the soil and underground strata of the tracts of land described in paragraph 4.1 above. Violator allowed hydrocarbons, paint wastes, or other dangerous substances to leak from above or be buried underneath the surface of the property as cited in paragraph 4.1 into the underlying and adjoining underground formations and strata. These harmful pollutants entered the soil and underground water tables and migrated underneath the ground into the same tract of land, as purchased by purchaser. The waste contaminates exceeded the threshold action levels established by the TCEQ. The underground contamination caused harm and damage to purchaser. 4.6 Violator’s actions have substantially interfered with purchaser’s use and enjoyment of the property, and are the sort of actions that would cause unreasonable discomfort or annoyance to persons of ordinary sensibilities attempting to use and enjoy their property such as purchaser. Without limiting the last sentence, the toxic waste that is on and beneath the tract of land purchased by the purchaser include known carcinogens that are on the EPA list of cancer-causing agents. Violator’s actions have caused purchaser to suffer the damages described more fully below. 4.7 Violator was negligent in failing to discharge its duty to exercise appropriate care in a safe, lawful, and prudent manner. violator also duties under the common

	<p>law and by statute (1) to prevent contamination from occurring in the first place; (2) to promptly investigate and determine the full extent and location of the soil and water affected by the disposals occurring on the site; and (3) to clean up the leaks and contamination caused by violator's operations. See 30 Tex. Admin. Code § 334.8. 4.8 Violator failed to fulfill the above duties, and failed to exercise care to ensure that the disposed wastes on its property prevented toxic wastes from entering land, or water sold to the purchaser; failed to prevent the discharge; failed to investigate the extent of the contamination after the discharges were discovered; failed to notify the purchasing landowner, purchaser, of the discharges and the potential for harm; and failed to clean up the discharges or pay for the costs to test for the discharges.</p>
<p>Specific Directions:</p>	<p>7012 Banyan Street, Houston, Texas 77028, Lot 7, Block 4, Houston Gardens Addition, City of Houston County of Harris, Texas known as 7012 Banyan St, Houston, Texas 77028</p>

[Contact Us](#) to ask a question, provide feedback, or report a problem.

Referred to Region 12.

From: gruta.gabriel@epa.gov [mailto:gruta.gabriel@epa.gov]
Sent: Wednesday, August 16, 2017 2:46 PM
To: Scott, Laretta <scott.lauretta@epa.gov>
Cc: Martinez, Eli <martinez.eli@epa.gov>; Gruta, Gabriel <Gruta.Gabriel@epa.gov>
Subject: FWD: (RCRA/Solid Waste - FY17-160110-3708-CV) Referred to Region - Texas

08/16/2017

SUBJECT: FWD: (RCRA/Solid Waste - FY17-160110-3708-CV) Referred to Region - Texas
FROM: gruta.gabriel@epa.gov
TO: scott.lauretta@epa.gov
CC: martinez.eli@epa.gov, gruta.gabriel@epa.gov

-----Original Message-----

8/10/2017 6:09 AM

HQ LEAD NUMBER: FY17-160110-3708-CV

SUBJECT: Referred to Region - Texas

FROM: bsmalling@billsmallinglaw.com

TO:

Name: Bill Smalling

Address: 1700 Post Oak Blvd, 2 BLVD Place, Ste. 600

City: Houston

State: Texas

Zip: 77056

Phone: 713-513-7153

Alleged Violator's Name: Delores Barnes

Alleged Violator's Address: 7012 Banyan

Alleged Violator's City: Houston

Alleged Violator's State: Texas

Alleged Violator's Zip: 77028

Tip or Complaint: * Please describe the incident or hazard in as much detail as possible. Use descriptive terms, such as gas drilling, drum dumping, tank truck discharging into drain, fish kill, leaking containers, Biosolids, etc., and if the alleged environmental violation has been recorded via video or photographs please include that fact in your description: (text will wrap automatically) 4.1. This petition is for any and all waste characterization, clean-up, disposal and labor for the clean-up of the property located at 7012 Banyan Street, Houston, Texas 77028, Lot 7, Block 4, Houston Gardens Addition, City of Houston County of Harris, Texas known as 7012 Banyan St, Houston, Texas 77028 that violator sold to Ms. Celestine Holcomb on or about August 3, 2016. 4.2 The following is intended to summarize the preliminary environmental findings relative to the lot in question. Some of the materials requiring clean-up are not visible such as including, but not limited, to: (1) waste paint and (2) 55-gallon drums with unknown contents (probably paint, solvent, and other types of hazardous wastes). These apparently are wastes from some type of prior painting business, such as an automobile body shop. This material is buried beneath the dirt and debris located in the right rear corner of the lot. Similar wastes may also be buried in other locations on the lot. 4.3 The clean-up will require a licensed environmental firm to perform the initial testing, waste clean-up, and final testing. The removed waste must be properly manifested and hauled off to a licensed hazardous waste disposal site. In addition, the lot must be restored to the specifications as prescribed by the U.S. Environmental Protection Agency ("EPA") and the Texas Commission on Environmental Quality ("TCEQ") regulations. These EPA and TCEQ certifications will likely require environmental testing and a series of technical reports to these agencies. 4.4 Pipes, tires, various types of metal equipment, concrete and debris are dumped on the lot. These materials must be removed as well. 4.5 At various times, violator discharged or released harmful substances, including cancer-causing agents, into the soil and underground strata of the tracts of land described in paragraph 4.1 above. Violator allowed hydrocarbons, paint wastes, or other dangerous substances to leak from above or be buried underneath the surface of the property as cited in paragraph 4.1 into the underlying and adjoining underground formations and strata. These harmful pollutants entered the soil and underground water tables and migrated underneath the ground into the same tract of land, as purchased by purchaser. The waste contaminates exceeded the threshold action levels established by the TCEQ. The underground contamination caused harm and damage to purchaser. 4.6 Violator's actions have substantially interfered with purchaser's use and enjoyment of the property, and are the sort of actions that would cause unreasonable discomfort or annoyance to persons of ordinary sensibilities attempting to use and enjoy their property such as purchaser. Without limiting the last sentence, the toxic waste that is on and beneath the tract of land purchased by the purchaser include known carcinogens that are on the EPA list of cancer-causing agents. Violator's actions have caused purchaser to suffer the damages described more fully below. 4.7 Violator was negligent in failing to discharge its duty to exercise appropriate care in a safe, lawful, and prudent manner. violator also duties under the common law and by statute (1) to prevent contamination from occurring in the first place; (2) to promptly investigate and determine the full extent and location of the soil and water affected by the disposals occurring on the site; and (3) to clean up the leaks and contamination caused by violator's operations. See 30 Tex. Admin. Code § 334.8. 4.8 Violator failed to fulfill the above duties, and failed to exercise care to ensure that the disposed wastes on its property prevented toxic wastes from entering land, or water sold to the purchaser; failed to prevent the discharge; failed to investigate the extent of the contamination after the discharges were discovered; failed to notify the purchasing landowner, purchaser, of the discharges and the potential for harm; and failed to clean up the discharges or pay for the costs to test for the discharges.

Specific Directions: 7012 Banyan Street, Houston, Texas 77028, Lot 7, Block 4, Houston Gardens Addition, City of Houston County of Harris, Texas known as 7012 Banyan St, Houston, Texas 77028

Violation Still Occurring? No

State DEP/DEQ/DEM Notified? Yes