

Texas Civil Enforcement Primer TCAA – Summer 2015



**DANIEL W. RAY
SCOTT & RAY, PLLC**

www.ScottRayLaw.com

Overview



Answers to Four Questions:

- 1. What is “civil enforcement,” and who can file a case?**
- 2. Process: What are the steps, what agencies are involved, and how do they work together?**
- 3. Criminal Comparison: Why is civil enforcement “better” than criminal or administrative enforcement?**
- 4. Money: Who pays for it, who gets the fine money, and how much money is available?**

Process



Process: What are the steps?

(1) Writing a report on a new case

**(2) Obtaining approval of the Council, Board or Commissioners
Court for civil case**

(3) Suit filed, and defendants served along with TCEQ

(4) Discovery completed

(5) Trial

OR

**Signing an Agreed Final Judgment – Always with a fine and costs,
usually with a permanent injunction**

What Is It?



- **District Court civil suit against violators**
- **Filed in either: (1) County of violation; (2) County of Defendant's residence; or (3) Travis County**
- **Allowed under the Texas Water Code, Administrative Code, Health & Safety Code, and Local Government Code.)**
- **Who can file? Cities and Counties only.**

Criminal v. Civil



Why is civil enforcement “better” than criminal or administrative enforcement?

Costs less (usually \$0)

Allows for much more local control

Brings revenue to support the agencies protecting public health

Criminal vs. Civil Enforcement



Criminal

Civil

Statute of Limitations

No Statute of Limitations

Case Filed by DA or CA

Case filed by private attorney or in-house City Attorney or County Attorney

Beyond a Reasonable Doubt

Preponderance of the Evidence (51%)

Multiple Violators Pass Blame

Multiple Violators Share Blame

Limited Discovery

Expansive Discovery

\$500-\$10,000 per violation

\$50-25,000 per violation

75% stays local

50% stays local

Criminalization stigma

All about the money

Money



Who pays for it?

- The defendants –required to pay all costs and attorney fees.

Who gets the fine money?

- Split 50/50 between the local government and the State.

What amount of civil fines are available?

- Fines are **\$50-\$25,000** per person, per violation, per day.
- For instance: **two employees** from a company illegally dump buckets of lead paint on a riverbank to avoid disposal fees. The buckets remain there for **10 days until discovered** and cleaned by the County. There are about **10 different violations** in that type of case, so there would be **200 “Violation Days.”** The minimum fine for that is \$10,000, and the maximum is \$5,000,000. Attorney’s fees and costs are assessed separately.

Grayson County v. Trident



Est. 400,000 tires
100,000+ tires
removed since suit
\$0 taxpayer cost

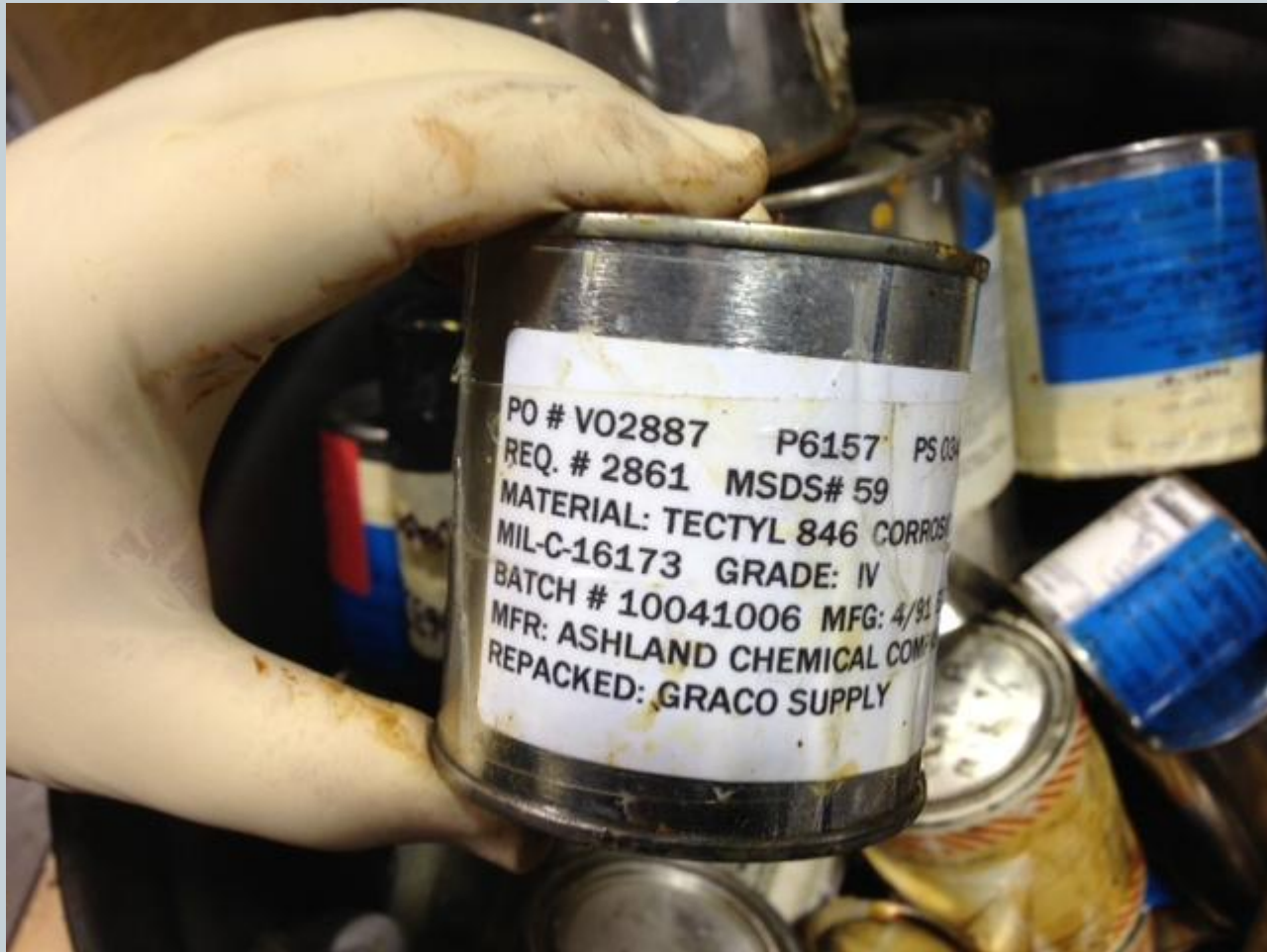
Hunt County & St. Paul vs. Fischer Scientific



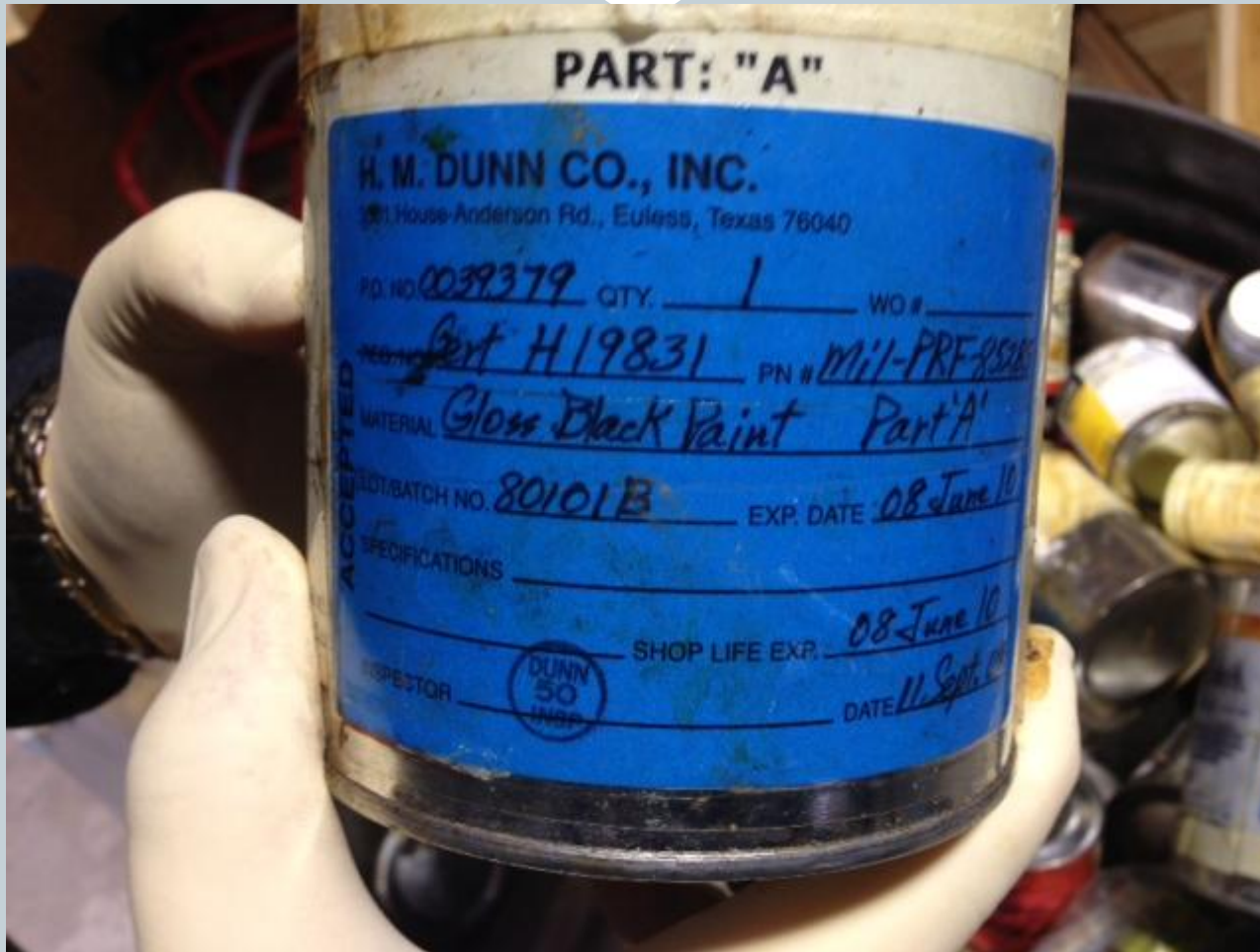
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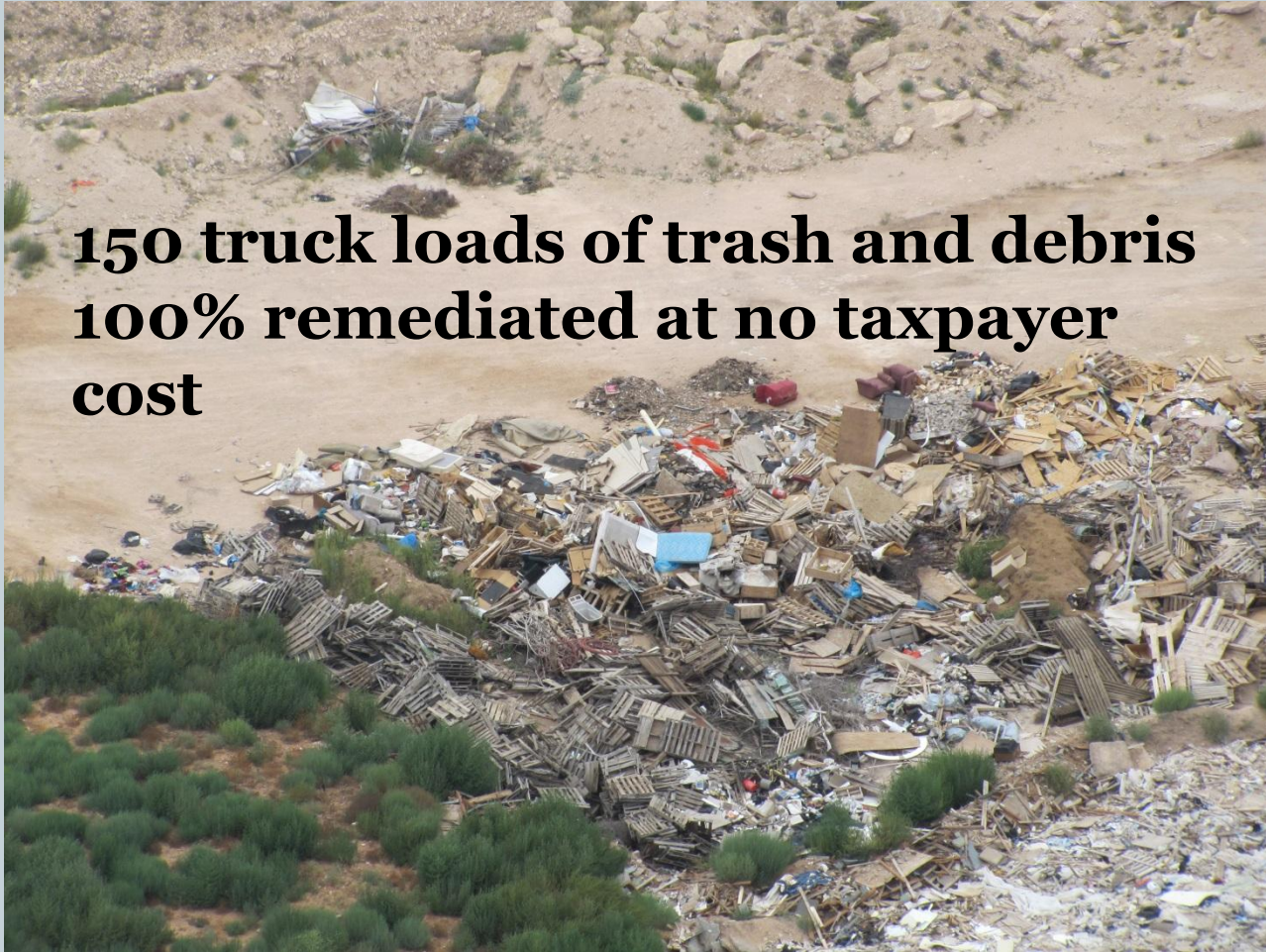
Hunt County & St. Paul vs. Fischer Scientific



Ector County v. Basin Disposal



**150 truck loads of trash and debris
100% remediated at no taxpayer
cost**



Ector County v. Basin Disposal



Ector County v. Basin Disposal



Ector County v. Basin Disposal



Ector County v. SIW Pipe



**200 truckloads of waste - \$100,000+ in landfill fees
- \$0 cost to taxpayers**



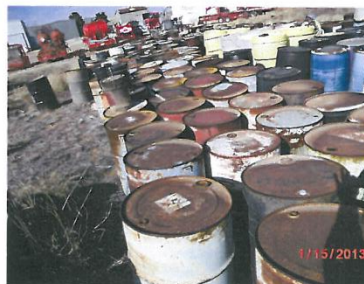
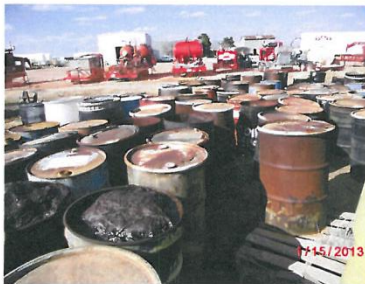
Ector County v. Javelinas



All the filters appeared to be soaked with an oily substance, with all the filters appearing to be recklessly placed in the yard and left with no intention to conduct proper disposal.



Ector County v. Plant Maintenance Services



Questions?



Daniel@ScottRayLaw.com

Office - 903.454.0044

Cell - 903.217.2828