



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **202149010**
Release Date: 12/10/2021

UIL: 501.03-00

Date: May 8, 2020

Taxpayer ID Number:

Form:

Tax Period(s) Ending:

Person to Contact:

Employee Identification

Telephone Number:

Fax Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear _____ :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3), effective January 1, 20XX. Your determination letter dated March 20, 19XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

Organizations described in IRC Section 501(c)(3) and exempt from tax under Section 501(a) must be both organized and operated exclusively for exempt purposes. You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. You have not established that you have operated exclusively for an exempt purpose.

As such, you failed to meet the requirements of IRC Section 501(c)(3) and Treasury Regulations Section 1.501(c)(3)-1(a), in that you have not established that you were

organized and operated exclusively for exempt purposes and that no part of your earnings inured to the benefit of private shareholders or individuals.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

Contributions to your organization are no longer deductible under IRC Section 170.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U. S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

We'll notify the appropriate state officials (as permitted by law) of our determination that you aren't an organization described in IRC Section 501(c)(3).

You may be eligible for help from the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

You can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800 829-3676) or visiting our website at www.irs.gov/forms-pubs.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Maria D. Hooke".

Enclosures:
Publication 892

Maria D. Hooke
Director, EO Examinations



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations

Date: October 28, 2019

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact:

M.

Employee ID:

Telephone:

Fax:

Manager's Contact Information:

Employee ID:

Telephone:

Response Due Date.

CERTIFIED MAIL –Return Receipt Requested

Dear :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the

IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

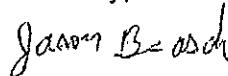
The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

For additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/foi/mis-pubs or by calling 800-TAX-FORM (800-829 3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,



FOR Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 20XX, 20XX

ISSUE:

Whether _____, () continues to qualify for Tax-exempt status as an organization described in the Internal Revenue Code (IRC) Section 501(c)(3) because of no exempt operation or activity since 20XX which includes the years under examination.

FACTS:

_____ was incorporated under the laws of the State of _____ as a non-profit corporation on December 7, 19XX for the purpose of the following:

- a) The operation of recycling centers and collection and sale of recycled materials.
- b) The development, study and propagation of water-wise plants and plants that can rid gardens of harmful insects.
- c) It is the specific purpose of the Corporation to create gainful employment for both Physically Mentally challenged individuals (handicapped).

On March 20, 19XX _____ was recognized to be exempt from federal income tax as an organization described in IRC Section 501(c)(3). They were granted exemption based on proposed activities and given a five-year advanced ruling period. At the end of the five-year advanced ruling period, they were granted foundation status based on their follow-up paperwork as a public charity per IRC 509(a)(2).

At the time they operated with a purpose of educating the public about recycling and helping disabled persons gain employable skills by working in the recycling industry by setting up and collecting cans and bottles and redeeming them for the cash value, running a recycling center.

The organization's Form 990 for 20XX was filed late in Nov 20XX after getting extension to 11-15-XX by the Court appointed Bankruptcy Trustee after they filed for Chapter 11 Bankruptcy in early 20XX. It was prepared by the organization's CPA with information provided by the replaced president, _____ but signed and filed by the Bankruptcy Trustee.

The examination of the Form 990s for 20XX and 20XX was conducted w/ the representative for the Bankruptcy Trustee who did their best to get the information from _____ who did not provide most documents requested. He refused to discuss the case with the Internal Revenue Service, ("IRS"), he talked with the attorney of the Bankruptcy Trustee who produced a "Timeline of events" which helped to understand how things occurred. This along with Forms 990 for prior years and His responses to questions under sworn testimony in a "341 Meeting of Creditors" for which I have obtained a copy of the Transcript from Recorded Proceedings 341 Meeting of Creditors, conducted by the Office of the United States Trustee along with review of their books and records will assist in determining their activities.

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A. One way of analyzing their activities is to look at what was described in the organization's Forms 990 for past years, years under exam and subsequent year.

In Form 990, Part III Statement of Program Accomplishments the organization has the following:
20XX – During 20XX, The organization conducted meeting and open forum discussions about the importance of recycling and spent time on educational matters about the value of recycling. The organization also participated in public events where information was discussed. The dissemination of information and brochures was bilingual, serving both the English and Spanish speaking.

Among the major events participated in by the organization were the following;
 The , St. Patrick's Day Parade
 The Children's Easter Day in ,
 The Earth Day Event in ,
 The Cinco de Mayo Event in ,
 The Flag Day Event in ,
 The Flea Markets in ,
 The Labor Day Event in ,
 Farmers Markets in County

The organization maintained informational booths at these events in which brochures were distributed and various talks were given the highlight the benefits of recycling.

In addition, the organization maintains a web site in which users can find out more about the organization and the benefits of recycling.

20XX- The exact same statement as 20XX only changing the date to 20XX and adding one additional paragraph

During 20XX, the Organization purchased and distributed energy efficient to encourage conservation.

20XX- The exact same statement as 20XX only changing the date to 20XX and changing the last paragraph

During 20XX, the organization purchased and distributed energy efficient to encourage conservation. The organization worked with Bank's , branch and through this association and through other community efforts the organization was able to distribute more than 0 during the year.

Finally, the organization worked with to sponsor a team and to assist in purchasing supplies and equipment for the league.

20XX- The exact same as 20XX only changing the date to 20XX and adding one additional paragraph

In addition, the organization expended resources exploring clean uses of its landfill site, including the utilization of solar and wind clean energy technology.

20XX- The exact same as 20XX only changing the date to 20XX.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended 20XX, 20XX

20XX- During 20XX, The organization conducted meetings and open forum discussions about the importance of recycling and spent time on educational matters about the value of recycling. The organization also participated in public events where brochures were distributed, and various talks were given to highlight the benefits of recycling. The dissemination of information and brochures was bilingual, serving both the English and Spanish speaking. The organization also maintains a web site in which users can find out more about the organization and the benefits of recycling.

Finally, the organization expended resources exploring clean uses of its landfill site, including the utilization of solar and wind clean energy technology.

20XX- The exact same as 20XX only changing the date to 20XX.

20XX- The exact same as 20XX only changing the date to 20XX.

20XX- The exact same as 20XX only changing the date to 20XX.

20XX- The exact same as 20XX only changing the date to 20XX.

20XX- The exact same as 20XX, date **not** changed still shows 20XX.

(- During 20XX, The organization conducted meetings and open forum discussions...)

20XX-

The organization has abandoned its original non-profit purpose in favor of a new purpose, which is to sell the Landfill to a financially responsible owner who could "close" the landfill and thereby, eliminate the financial and environmental burden of the landfill on the State of and the State Water Board. This action was favorably endorsed by the State Water Board as evidenced by its suspension of waste discharge requirements while the landfill is under the Chapter 11 Trustee's responsibility.

The organization was incorporated on as a non-profit public benefit corporation under 501(c)(3) and 509(a)(2) with the primary purpose of increasing awareness of the importance of recycling. In 19XX the organization acquired the Landfill, a closed landfill with a transfer station and recycling center, where the public could for a fee deposit garage sale items for subsequent re-use or sale. In 20XX, the recycling center and adjacent land was leased to , which continues to this day. day Following its acquisition of the landfill the organization repeatedly violated the terms of waste discharge requirements imposed by the Water Board culminating on with the Water Board assessing a civil liability order against the organization in the amount of \$0. On under the burden of the Water Board assessment, the organization filed for Chapter 11 Bankruptcy protection with the hope that it could reorganize its affairs and continue with its original non-profit purpose. On

() was appointed to serve as the Chapter 11 Bankruptcy Trustee of the organization, (the debtor). As the Trustee, abandoned the debtor's original non-profit purpose in favor of a new purpose which is to find and sell the landfill to a financially responsible owner who could "Close" the landfill and thereby eliminate the financial and environmental burden of the landfill on the State of and the Water Board. This action was favorably

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endorsement by the State Water Board, as evidenced by its Suspension of waste discharge requirements while the landfill is under Chapter 11 Trustee's responsibility. Shortly after his appointment, contacted numerous engineers, developers, and realtors who were familiar with the landfill and received closure estimates ranging between \$0 million and \$0 million, absent the availability of reliable landfill assessment information the range and magnitude of these estimates made the sale of the landfill on an "as-is-where-is" basis extremely problematic. In negotiated a loan-option agreement with a potential buyer of the landfill that provided funds to pay for an environmental assessment of the landfill contents (landfill report). The landfill report was completed in and on the findings of this and a second supplemental report were presented to the state Water Board for its review and comment. At the meeting representatives of the Water Board characterized the landfill as "well-functioning and described the contaminant levels as being not so problematic". As the date of this statement November 1, 20XX, the holder of the loan-option decided not to exercise its option for reasons unrelated to the landfill contents, and the Trustee has made it be known to various other parties who had earlier expressed an interest in the landfill that it will be soon advertised for sale following an auction process under the supervision of the Bankruptcy Court (A "Section 363 Sale") more than one party has expressed a definite intent to participate in the sale process although at this date there can be no assurances that a successful sale of the landfill will occur nor can there be assurances that a purchaser of landfill will close the landfill to the satisfaction of the State of and the Water Board. The organization is very optimistic that these events will happen, and will substantially reduce the financial, environmental and public nuisance burden of the landfill on the State of , the Water Board and the Public

B. Second way to learn about the organization's activities is through review of the Transcript from Recorded Proceedings 341 Meeting of Creditors, conducted by the Office of the United States Trustee.

In this transcript the President of , was asked question by the Bankruptcy Court and answered or one of his attorneys answered under sworn in testimony. Some of the questions to help determine activities of the organization are as follows:

The meeting was conducted on , () President of (debtor) was represented by (debtor Atty) and in attendance were several creditors, several persons from State Attorney General's Office and Attorneys representing Water Board. It was Conducted by , () from office of U.S. Trustee. was sworn in as would a person in a deposition.

asked what business is the organization in? replied: We are a nonprofit group. We bought a piece of property from a—in a foreclosure—well, pardon me we bought the deed of trust from the back in—I wasn't even there then—back in 'XX. I assume, and we-they put it through and foreclosed on everybody which included the Water Board for \$0 , and we have

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just operated it--although its nonprofit, nobody—we do not take any funds from anybody. Its money that we produce on our own business. We never, never take any money from anybody. We even pay taxes on the property. And anything we get, you know it's—it's—if we ever get it will be taxable. And our—our-- our by-laws and our hopes and mission. I guess you'd call it, is we were taking property like what we have now at _____, which is not even a landfill. Its just a bunch of trash, and they just covered it with a clay covering, didn't take – they just, like covering this whole desk with paper, and they say it's done and well, its not done. But that's – and our –our move is – our trek, our mission is to clean up that spot and – so that it is a fusible piece of property rather than an eyesore. and we're spending a horrible amount of money attempting to show that there is nothing going from that pile down into the water. which is about 0 feet underground. And our whole problem in life right now is the Water Board. That 's why we're here today

then asked what was _____ formed for? Was It formed for the specific purpose of cleaning up this specific piece of property that—

said No, but any property.

said to clean up any property?

said Yes Landfill, old landfills and uh what they call them now, I can't think of the other part of it,

asked Was there an educational purpose at all? I saw that mentioned in a tax document.

said Oh we—when—when they started originally, they—they hired, as soon as we—as they have a piece of property and working on it , they hired handicapped to when you would bring in stuff, we ran this transfer station for a while, and then they changed it into a recycling center. And so, we had a bunch of klds that were In their wheel chairs running around selling their stuff and doing that.

said but my understanding is _____ never ran a recycling place. It only owned land and somebody else was owning a recycling place.

: Well, no we—we ran it for –we, I mean _____ ran it for _____ years. I don't –don't hold me to that, because I 'm not sure—ran it for a couple of years and then we leased the property out to _____

: Okay then _____ operated a recycling center a transfer—

: No, they—

—Station

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: operated a real transfer station, yes, ma'am.

: O, back to one we missed. Somebody said do we do any—what we were doing. You said we used to hold, and we only hold a few of them this year – we used to hold, almost monthly, we would hold meeting with different groups to go over what they could do to recycle in either their business or their home or their group to kind of clean up the Earth through the recycling. We ordered—we had a great big can of –I'm sorry –a great big can, about this high, shaped like a _____ and we put those in a lot of offices. We put them in a lot of service stations, and they'd dump their stuff, and the kids would come pick it up and be off.

: When—it sounds like you used to hold these almost-monthly meetings. Are these meetings held anymore?

: They're held, but not as often, because there's not a lot we can say to anybody that they don't already know. They're not—we just can't –its' so simple to do it that it's just kind of gone away.

: What activities, other – what activities regarding cleanup of the landfill has _____ done?

: Oh, the Water Board gives us orders on daily basis to go out and pick up sticks off the property and clean something else up, and uh, but we have never gone into the landfill itself because that's—you don't get into that. The—don't know how to explain it. We just—there's nothing—there's nothing for us to do to the landfill that can change it without moving it off the property. We asked once before if we could do a test. Have you seen a configuration of the landfill on the property?

: the lot lines and so forth?

: Yeah. Well if we—we went in and asked could we just—if we can't cut the whole thing down, get rid of it, because they don't know what's –this is what I understand then. They don't know what's in there. They put it there, but they don't know what's there and—

: What I'm getting at then is, if you're not doing very—if _____ isn't doing very much in the way of educational seminars and so forth and it isn't really cleaning up the site, what is it –what activities is it engaged in which will maintain its nonprofit status?

: We are attempting to clean the site up. Attempting. Definitely.

: Is 'attempting' having conversations asking for permissions to clean it?

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: Oh certainly. Certainly. It's a work in project to do and whether you put a shovel to it or go through all the book work first it's -it's—it's doing what we consider our job on—what our mission is on it.

: Well what book work is involved?

: Well, the engineering and that kind of stuff, and what—what—what—they find in the water if anything. what they find in the gas, if anything, and how that correlates to what is in the landfill.

: And how often are engineering studies done?

Well, they were—the last one we did for water was about two months ago. And gas was done about the same time. And we haven't got a road-back on the water yet, because we're trying to compare it to a 20XX, first part of the year, almost a year old, and then we did the other one in 20XX. We're trying to compare it to is it the same before, is something happening?

And that's the same thing we do with the gas. The gas all we have to measure is—is a couple times, and the gas has never shown a problem ever.

There are more discussions about the problems the organizations have with the Water Board and who sends the reports to the Water Board in which indicates the engineer sends reports to Water Board.

: Oh Okay, here we go. The organization expended resources exploring clean used of its landfill site including the utilization of solar and wind clean energy.

: When we could not do—in one of the—one of the places we were going and recycling brings you into solar and everything else, we made a – we spent a lot of time, the whole group did, on attempting to, since the landfill couldn't be moved, that we spent a lot of time dealing with some three or four solar companies who were willing to come out. And all they had to do was take a – a—put a 0-degree slope on the front of the landfill. And they were going to take his green surface they have, it's a rubber thing, come the entire thing, put the little corks up so they can hook on the solar. And they were going to put a solar panel on the top and all the way around the rest of the property. And it was a dollar deal which was almost financed by the Federal Government. And our answer was "No. You can't do that."

: Oh, your answer from the Water Board, or your answer to the solar company?

: Our answer from the Water Board.

. Okay that didn't work at that time. Has anything been done since the beginning of 20XX to further this nonprofit status of the company? Have there been any speeches or further

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investigations or engineering work in 20XX?

: No, Ma'am. We have been fighting the Water Board all the time.

The meeting continued going thru the bankruptcy petition and discussed the creditors and included mention of numerous attorneys who were creditors after representing the organization in various lawsuits regarding the properties and who had still not been paid.

: Does [redacted] have any significant income at all in addition to that rent it receives from [redacted]? It gets money from [redacted], the debtor does

. Yes

: Does it get any other –does it have any other regular source of income?

: No, No, No, ma'am.

The meeting concluded with questions from various creditors clarifying statements that had been given before, going over financial data, bank statements and canceled checks that had been included with filings and miscellaneous info not directly related to their activities.

C. A review of the Timeline for [redacted] prepared by the Attorney for the Bankruptcy Trustee who talked at length w/ [redacted] to try to get an idea of what significant events occurred in the history of the organization revealed the following:

Only the items involving actions taken by [redacted] or causing [redacted] to respond, or actions taken by the members of the board of the organization are listed.

- 19XX** The organization is incorporated as a non-profit corporation. [redacted].
- 19XX** [redacted] purchase property; waste discharge requirements issued by Water Board in place at time of purchase.
- 19XX** Water Board issues Cleanup and Abatement Order (CAO) against [redacted].
- Early 20XX** [redacted] begins leasing a portion of the property to [redacted] to operate a retail nursery.
- 4/20XX** Water Board files judicial action to force compliance w/ 19XX CAO.
- 6/20XX** Water Board and [redacted] enter into stipulated judgment re clean-up/monitoring of covered landfill.
- 20XX** [redacted] ceases complying w/ most terms of stipulated judgment.
- 5/20XX** Abstract of judgment recorded by [redacted] of [redacted] against [redacted] for \$0
- 11/20XX** [redacted] enters int \$0 [redacted] loan with [redacted] which is due on Dec 1, 20XX; secured by first deed of trust against real property. [redacted] records first deed of [redacted]

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trust for 0 loan.

1/20XX enters into modification of \$0 loan w/ , extending due date to Dec. 1, XX. enters into \$0 loan w/ due on 12/1/XX secured by second deed of trust on the property.

6/20XX Water Board issues new waste discharge requirements.

3/20XX , () created [] of .

4/20XX Memorandum of Settlement and Lease Termination signed by recorded w/

5/20XX Memorandum of Lease between and recorded.

11/20XX Title Company signs request for split of property into a 0-acre parcel where landfill located (landfill parcel) and 0-acre parcel where nursery located, () and where transfer station when property operated as a landfill on behalf of both and \$0 deed of trust.

11/20XX signs request for parcel split on behalf of \$0 deed of trust; and enter into second loan modification extending due dates of both notes to 12/1/XX.

12/20XX signs request for parcel split on behalf of deed of trust.

2/20XX signs request for parcel split on behalf of ; signs off on request for parcel split.

3/20XX : signs off on request for parcel split; City of Clerk signs off on request for parcel split; Property Split recorded by County.

4/20XX Water Board issues notice of violation for delinquent reports to .

1/20XX Water Board issues administrative civil liability complaint against for violations of waste discharge requirements.

3/20XX Water Board issues second notice of violation to for materially defective monitoring reports.

5/20XX & each sign deeds of trust against property; for \$0 and for \$0; is president and is possible director of .

6/20XX (Civil liability for \$0 issued in favor of Water Board and against .

7/20XX transfers ownership of to for \$0.

8/20XX Water Board issues new CAO

9/20XX Transfer of ownership of from to recorded; 20XX Stip Judgment between and Water Board recorded. and enter into Memorandum of Agreement by which transfers portions of the Landfill parcel upon the clean closure of the parcel Memorandum is recorded. files late petition to Water Board for review of 20XX CAO.

10/20XX & record fifth and sixth deeds of trust against property.

11/20XX Water Board files complaint to set aside transfer of to .

12/20XX Judgment in favor of the Water Board for \$0 civil liability; Judgment in favor of Water Board for \$0 civil liability.

1/20XX Both Judgment liens in favor of the Water Board recorded; Water Board files complaint for injunctive relief for failure to comply with waste discharge requirements.

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2/20XX deed of trust assigned to ; records notice of default on third deed of trust.
3/20XX files for Chapter 11 Bankruptcy.
6/20XX appointed as Chapter 11 Trustee; transfers property back to ;

D. A review of the books and records of the years under examination support the activities of the organization by looking at the sources of income and the types of expenses.

Income:

An analysis of income for both 20XX and 20XX show that the primary source of income for the organization is from the rental of the clean parcel of property to the commercial nursery. In 20XX, once the Bankruptcy Trustee look over and was let go, there was also some repayments required from for personal expenses such as payments of telephone and utilities that he was required to repay and when they changed insurance providers a rebate of insurance.

INCOME:	20XX	20XX
Rental Income	\$0.00	\$0.00
Transfer from 0-Account of	\$0.00	
Overdraft Settlement	\$0.00	
Transfer from - Account of	\$0.00	
Interest		\$0.00
Telephone Reimburse- From		\$0.00
Insurance Co. Reimburse		\$0.00
Uncleared Checks		\$0.00
TOTAL	\$0.00	\$0.00

Expenses:

Since the documentation for expenses was not very much for 20XX and mainly comprised of financial statements filed with the bankruptcy court in 20XX, the bank statements were summoned. It was not until 20XX bank records were summoned and the Transcripts of the meeting were reviewed in detail that it was learned that the organization used the bank account of for the first 0 months of 20XX for its expenses and they provided a check register for those three months. The bank documents were only summoned for the bank records of for 20XX April till June when it closed. No records of

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
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account was summoned. Based on these records the following business-related expenses were found.

EXPENSES:	<u>20XX</u>	<u>20XX</u>
Interest Paid	\$0.00	\$0.00
Real Property Tax		\$0.00
Insurance	\$0.00	\$0.00
Salaries Paid to		\$0.00
Other Interest		\$0.00
UST Quarterly Fees		\$0.00
Legal Fees	\$0.00	
Operating Expenses	\$0.00	\$0.00
Tax preparation Fees	\$0.00	\$0.00
TOTAL	<u>\$0.00</u>	<u>\$0.00</u>

The operating expenses included items relative to the maintenance of the landfill parcel. The analysis of the bank records also indicated amounts of personal usage of the organization's funds by and which they call payback of loans, reimbursements of expenses they paid for the organization, withdrawals for landfill labor or amounts says were not just for themselves going to restaurants but to take the Little League to dinner or lunch.

When asked what comprises the rental expenses, I was not given any response for either year.

	<u>20XX</u>	<u>20XX</u>
Rental Expense	\$0.00	\$0.00
Functional Expense	\$0.00	\$0.00
TOTAL	\$0.00	\$0.00
Per Exam	(0.00)	(0.00)
Difference	<u>\$0.00</u>	<u>\$0.00</u>

Some of the difference is attributed to unsubstantiated business expenses, some to personal expenses and uses of funds by and .

LAW:

IRC § 501(c)(3) exempts from federal income tax organizations which are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the

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benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Tax Reg. § 1.501(c)(3)-1(d)(i) states that an organization may be exempt as an organization described in 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals.

Tax Reg. § 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section.

Tax Reg. § 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).

A single nonexempt purpose, if substantial in nature, will disqualify an organization from qualification under section 501(c)(3). *Better Business Bureau v. United States*, 326 U.S. 279, 283 (1945).

Revenue Ruling 58-617, 1958-2 CB 260, (Jan. 01, 1958) Rulings and determinations letters granting exemption from federal income tax to an organization described in section 501(a) of the Internal Revenue Code of 1954, to which contributions are deductible by donors in computing their taxable income in the manner and to the extent provided by section 170 of the Code, are effective only so long as there are no material changes in the character of the organization, the purposes for which it was organized, or its methods of operation. Failure to comply with this requirement may result in serious consequences to the organization for the reason that the ruling or determination letter holding the organization exempt may be revoked retroactively to the date of the changes affecting its exempt status, depending upon the circumstances involved, and subject to the limitations on retroactivity of revocation found in section 503 of the Code.

TAXPAYER'S POSITION:

The organization has abandoned its original non-profit purpose in favor of a new purpose, which is to sell the Landfill to a financially responsible owner who could "close" the landfill and thereby, eliminate the financial and environmental burden of the landfill on the State of _____ and the State Water Board. This action was favorably endorsed by the State Water Board as evidenced by its suspension of waste discharge requirements while the landfill is under the Chapter 11 Trustee's responsibility.

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GOVERNMENT'S POSITION AND CONCLUSION:

As demonstrated in Rev. Rul. 58-617, an organization's exempt status will remain in effect only so long as there are no material changes in the character of the organization, the purposes for which it was organized, or its methods of operation. In the case of _____, a review of the Forms 990 and the review of the documentation as well as the financials indicates that the focus of _____'s activities changed from its exempt purpose to dealing with the management of the landfill property.

For many years and in 20XX and 20XX the only source of income was from the 0-acre parcel rented to the commercial nursery, which is not an exempt activity.

In the case of _____, the organization has not provided any documentation to support it has conducted any activities in pursuit of its primary purpose of increasing awareness of the importance of recycling or employment training (for development of job skills) for the physically, mentally and socially challenged individuals from _____ County and surrounding areas.

All expenses in 20XX and 20XX support operations of management of the 0-acre landfill parcel with some limited expenses which could also relate to the rental property like fencing, perhaps maybe property tax but these were not made clear and no documentation were provided by _____. But no expenses relate to their exempt purpose and nothing provided indicates they are conducting any exempt activities. Some expenses were also for personal expenses of the President and his wife.

As for their statement that they are lessening the burdens of government, in order for this to be the case, first the burden has to belong to the State of _____, or the Water Board. The burden for "closing" the landfill would remain with the owners of the property. During this Chapter 11 Bankruptcy, the conflict has been between the President of _____ and the Water Board and the issue of disagreement regarding Water Board's assessment of fines about _____'s required reporting and monitoring of the landfill. The court appointed Trustee was allowed a stay of meeting the reporting and monitoring requirements during the time he is charged with the responsibility as Trustee so he could concentrate on selling the property to a financially responsible owner who could "close" the landfill. The burden would then go to the new owner not the State or the Water Board. So that argument isn't valid.

Based on their lack of documentation provided and from the repeated use of same language from one year to next on the Forms 990s, not even changing the date on 20XX's description of activities, as well as _____ own statement during the 341 Meeting of Creditors to the Questions - Has anything been done since the beginning of 20XX to further this nonprofit status of the company? Have there been any speeches or further investigations or engineering work in 20XX? _____ : No, Ma'am. We have been fighting the Water Board all the time.

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Finally, looking at the "Timeline" which emphasizes the various significant events that listed actions taken by or which caused to respond, or actions taken by the members of the board of the organization, it is clear that these took a lot of time and resources of the management of to address. This supports statement that they have been fighting the Water Board all the time. And nothing was listed on the Timeline regarding exempt activities.

As such, fails to meet the operational requirements to continue its exemption status under IRC 501(c)(3). Therefore, the effective revocation date will be 1/1/20XX