

Executive Summary – Enforcement Matter – Case No. 40495
Robert E. Hunt, III dba Trey Hunt Cutting Horses
RN105897540
Docket No. 2010-1655-AGR-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
AGR

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
110 Hereford Lane, Millsap, Parker County

Type of Operation:
animal feeding operation and horse training facility

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: August 19, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,625

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$2,625

Compliance History Classifications:
Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: March 11, 2010; September 8, 2010
Date(s) of NOV(s): March 25, 2011
Date(s) of NOE(s): September 13, 2010

Violation Information

Failed to prevent the discharge of agricultural waste into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Begin regular cleaning of the holding pens at the Site to remove waste on a regular basis, and establish a plan to protect water quality and prevent future discharges.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: April 15, 2011
Date(s) Green Card(s) Signed: April 18, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: James Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: JR Cao, Water Enforcement Section, (512) 239-2543
TCEQ Regional Contact: Sid Slocum, Dallas/Fort Worth Regional Office, (817) 588-5901
Respondent: Robert E. Hunt, III, 209 Lookout Point, Comfort, Texas 78013
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Sep-2010	Screening	30-Sep-2010	EPA Due	
	PCW	14-Apr-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Robert E. Hunt, III dba Trey Hunt Cutting Horses				
Reg. Ent. Ref. No.	RN105897540				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	40495	No. of Violations	1
Docket No.	2010-1655-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$125
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Notes	An enhancement is recommended for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$786	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,625
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$2,625
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Screening Date 30-Sep-2010

Docket No. 2010-1655-AGR-E

PCW

Respondent Robert E. Hunt, III dba Trey Hunt Cutting Horses

Policy Revision 2 (September 2002)

Case ID No. 40495

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105897540

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

An enhancement is recommended for one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 30-Sep-2010

Docket No. 2010-1655-AGR-E

PCW

Respondent Robert E. Hunt, III dba Trey Hunt Cutting Horses

Policy Revision 2 (September 2002)

Case ID No. 40495

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105897540

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent the discharge of agricultural waste into or adjacent to water in the state, as documented during a record review on September 8, 2010. Specifically, there were several areas of ponding within the holding pens and waste runoff from the holding pens was draining directly into the nearby creek.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual		x		
	Potential				25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 22 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the date of the record review (September 8, 2010) to the screening date (September 30, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$786

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Robert E. Hunt, III dba Trey Hunt Cutting Horses
Case ID No. 40495
Req. Ent. Reference No. RN105897540
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	11-Mar-2010	25-Apr-2011	1.12	\$37	\$749	\$786
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the waste on a regular basis, and implement a water quality management plan. Date required is the date the violation was initially documented. Final date is the estimated date of completion.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$786

Compliance History Report

Customer/Respondent/Owner-Operator: CN603647405 Robert E. Hunt, III Classification: AVERAGE Rating: 15.00
Regulated Entity: RN105897540 Trey Hunt Cutting Horses Classification: AVERAGE Site Rating: 15.00
ID Number(s):
Location: 110 HEREFORD LN, MILLSAP, TX, 76066
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: September 22, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 22, 2005 to September 22, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: JR Cao Phone: (512) 239-2543

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 09/14/2010 (860196)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 03/25/2010 (796399)
- Self Report? NO Classification: Major
Citation: 30 TAC Chapter 321, SubChapter B 321.47(b)(3)(A)
30 TAC Chapter 321, SubChapter B 321.47(d)(2)
Description: Failure to provide proper pen drainage and to prevent the discharge or disposal of manure, litter, or wastewater from an animal feeding operation (AFO) into or adjacent to waters in the state.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.47(b)(3)(B)
Description: Failure to operate the AFO in a manner as to prevent the creation of a nuisance or a condition of air pollution.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.47(c)(1)
Description: Failure to locate, construct, and manage the land management unit in a manner that will protect surface and groundwater quality.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.47(c)(6)
Description: Failure to locate all holding pens outside the 100-year flood plain.
- Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.47(f)(19)(A)
Description: Failure to prevent confined animals from coming into direct contact with surface water in the state.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROBERT E. HUNT, III DBA
TREY HUNT CUTTING HORSES;
RN105897540**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1655-AGR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Robert E. Hunt, III DBA Trey Hunt Cutting Horses ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates an animal feeding operation that includes a horse training facility located at 110 Hereford Lane in Millsap, Parker County, Texas (the "Site"). Respondent has discharged waste from the Site into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During an investigation conducted on March 11, 2010, and a follow up record review conducted September 8, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to prevent the discharge of agricultural waste into or adjacent to water in the state. Specifically, several areas of ponding wastewater were in the holding pens and runoff from manure in the in the holding pens drained from the Site and directly into a nearby creek.
3. Respondent received notice of the violation on or about September 18, 2010.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Robert E. Hunt, III DBA Trey Hunt Cutting Horses" (the "EDPRP") in the TCEQ Chief Clerk's office on April 15, 2011.
5. By letter dated April 15, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on April 18, 2011, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent the discharge of agricultural waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of two thousand six hundred twenty-five dollars (\$2,625.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of two thousand six hundred twenty-five dollars (\$2,625.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and

shall be sent with the notation "Re: Robert E. Hunt, III DBA Trey Hunt Cutting Horses; Docket No. 2010-1655-AGR-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall begin regular cleaning of the holding pens at the Site to remove waste on a regular basis, and establish a plan to protect water quality and prevent future discharges; and
 - b. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.

6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

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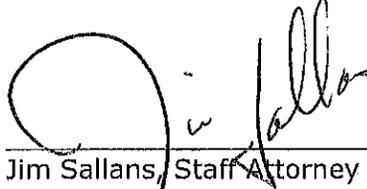
COUNTY OF TRAVIS

"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Robert E. Hunt, III DBA Trey Hunt Cutting Horses" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 15, 2011.

The EDPRP was mailed to Respondent's last known address on April 15, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on April 18, 2011, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 4th day of August, A.D. 2011.

