

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 39675
GARRETT CONSTRUCTION CO.
RN101735207
Docket No. 2013-1921-MSW-E

Order Type:

Default Order

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Garrett Road and Farm-to-Market Road 2725 near Ingleside, San Patricio County

Type of Operation:

construction business

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: November 21, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$27,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$27,000

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: February 26, 2013
Date(s) of NOV(s): N/A
Date(s) of NOE(s): April 5, 2013

Violation Information

Failed to prevent the unauthorized disposal of municipal solid waste ("MSW") (approx. 1,150 scrap tires and approx. 50 cu/yd. of household waste, construction debris, wood, plastic, drums, and rubber hoses) [30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Agreed Order Docket No. 2010-0809-MLM-E, Ordering Provision No. 2.b.i.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Immediately, cease disposing of any additional MSW, including scrap tires, at the Site.
2. Within 30 days, remove all MSW and scrap tires from the Site and dispose of them at an authorized facility.
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: June 6, 2014; July, 17, 2014
Date Green Card(s) Signed: June 12, 2014; July 22, 2014
Date Answer(s) Filed: N/A

TCEQ Attorneys: Jacquelyn Boutwell, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, (512) 239-1203

TCEQ Regional Contact: Hector Gonzales, Corpus Christi Regional Office, (361) 825-3100

Respondent Contact: Jon Garrett, President, GARRETT CONSTRUCTION CO., P.O. Box 1028, San Patricio, Texas 78362

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Apr-2013	Screening	5-May-2013	EPA Due	
	PCW	3-Apr-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	GARRETT CONSTRUCTION CO.
Reg. Ent. Ref. No.	RN101735207
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39675	No. of Violations	1
Docket No.	2013-1921-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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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	20.0% Enhancement Subtotals 2, 3, & 7	\$4,500

Notes: Enhancement for one order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.			

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$570	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,389		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$27,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes:

Final Penalty Amount \$27,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$27,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)				

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$27,000
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Screening Date 5-May-2013

Docket No. 2013-1921-MSW-E

PCW

Respondent GARRETT CONSTRUCTION CO.

Policy Revision 2 (September 2002)

Case ID No. 39675

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101735207

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 judgments 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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability.

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

Screening Date	5-May-2013	Docket No.	2013-1921-MSW-E	PCW
Respondent	GARRETT CONSTRUCTION CO.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	39675		<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.	RN101735207			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Keith Frank			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 330.15(c) and TCEQ Agreed Order Docket No. 2010-0809-MLM-E, Ordering Provision No. 2.b.i.			
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 1,150 scrap tires (approximately 115 cubic yards) and approximately 50 cubic yards of MSW including household waste, construction debris, wood, plastic, drums, and rubber hoses were disposed of at the Site.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			x
Potential				
				Percent 25%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent 0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment				\$7,500
				\$2,500
Violation Events				
Number of Violation Events		9	810	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty \$22,500
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
Nine quarterly events are recommended based on documentation of the violation from the February 20, 2011 effective date of the Agreed Order to the May 10, 2013 screening date.				
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				\$22,500
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$570	Violation Final Penalty Total	\$27,000	
This violation Final Assessed Penalty (adjusted for limits)				\$27,000

Economic Benefit Worksheet

Respondent GARRETT CONSTRUCTION CO.
Case ID No. 39675
Reg. Ent. Reference No. RN101735207
Media Violation No. 1 Municipal Solid Waste

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)				0.00	\$0	\$0	\$0
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	\$2,389	24-Feb-2010	2-Dec-2014	4.77	\$570	n/a	\$570
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 the MSW and dispose of it at an authorized facility. Date Required is the initial investigation date. Final Date is the estimated date of compliance.

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 \$2,389

TOTAL \$570

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600933048, RN101735207, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600933048, GARRETT CONSTRUCTION CO. **Classification:** SATISFACTORY **Rating:** 32.50

Regulated Entity: RN101735207, Garrett Construction **Classification:** SATISFACTORY **Rating:** 32.50

Complexity Points: 8 **Repeat Violator:** NO

CH Group: 09 - Construction

Location: GARRETT ROAD & FM 2725, SAN PATRICIO COUNTY

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 21414
AIR NEW SOURCE PERMITS REGISTRATION 41264
AIR NEW SOURCE PERMITS ACCOUNT NUMBER 941264M
AIR NEW SOURCE PERMITS REGISTRATION 41265
TIRES REGISTRATION COT0006
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER UNA455140066

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: April 02, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 02, 2009 to April 02, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Keith Frank

Phone: (512) 239-1203

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 **Effective Date:** 02/20/2011 **ADMINORDER** 2010-0809-MLM-E (1660 Order-Agreed Order With Denial)
 - Classification:** Major
 - Citation:** 30 TAC Chapter 330, SubChapter A 330.15(c)
 - Description:** Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 50 cubic yards of MSW including household waste, construction debris, wood, plastic, drums and rubber hoses were disposed of at the Site.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 330, SubChapter A 330.15(c)
 - Description:** Failed to prevent the unauthorized disposal of scrap tires. Specifically, approximately 1,871 scrap tires (approximately 187 cubic yards) were disposed of at the Site.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 328, SubChapter F 328.56(d)(4)
30 TAC Chapter 328, SubChapter F 328.63(d)(2)
 - Description:** Failed to have an effective vector control program for scrap tires stored on the ground. Specifically, the Respondent did not monitor the scrap tires stored outside for vectors. The TCEQ investigator observed animal tracks, droppings, and burrows in and around the scrap tire pile.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 324, SubChapter A 324.6
 - Classification:** Moderate
 - Description:** 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)
Failed to perform cleanup actions upon detection of a release of used oil. Specifically, multiple areas of oil-stained soils were observed.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 324, SubChapter A 324.11
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.24
 - Description:** Failed to use a TCEQ registered used oil transporter. Specifically, the Respondent removed approximately 80 barrels of used oil without using a registered transporter.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GARRETT CONSTRUCTION CO.;
RN101735207**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-1921-MSW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, 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 GARRETT CONSTRUCTION CO. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a construction business located at Garrett Road and Farm-to-Market Road 2725 near Ingleside, San Patricio County, Texas (the "Site"). The Site involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on February 26, 2013, a TCEQ Corpus Christi Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 1,150 scrap tires (approximately 115 cubic yards) and approximately 50 cubic yards of MSW including household waste, construction debris, wood, plastic, drums, and rubber hoses were disposed of at the Site.
3. The Executive Director filed the "Executive Director's First Amended 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 GARRETT CONSTRUCTION CO." (the "EDFARP") in the TCEQ Chief Clerk's office on July 17, 2014.
4. By letter dated July 17, 2014, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on July 22, 2014, as evidenced by the signature on the card.
5. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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 unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Agreed Order Docket No. 2010-0809-MLM-E, Ordering Provision No. 2.b.i.
3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, 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 TCEQ'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 twenty-seven thousand dollars (\$27,000.00) 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 twenty-seven thousand dollars (\$27,000.00) 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: GARRETT CONSTRUCTION CO.; Docket No. 2013-1921-MSW-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. Immediately upon the effective date of this Order, Respondent shall cease disposing of any additional MSW, including scrap tires, at the Site.
 - b. Within 30 days after the effective date of this Order, Respondent shall remove all MSW and scrap tires from the Site and dispose of them at an authorized facility.

- c. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. and 3.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, 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 supporting 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:

Hector Gonzales, Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
NRC Building Suite 1200
6300 Ocean Drive Unit 5839
Corpus Christi, Texas 78412-5839

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. Extension requests shall be submitted to the Order Compliance Team at the address listed in Ordering Provision No. 3.c.

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 JACQUELYN BOUTWELL

STATE OF TEXAS

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COUNTY OF TRAVIS

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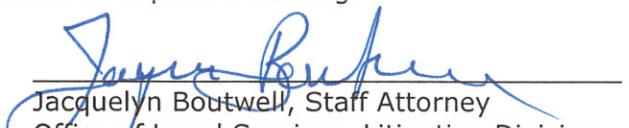
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"My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 GARRETT CONSTRUCTION CO." (the "EDFARP") was filed in the TCEQ Chief Clerk's office on July 17, 2014.

The EDFARP was mailed to Respondent's last known address on July 17, 2014, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on July 22, 2014 as evidenced by the signature on the card.

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



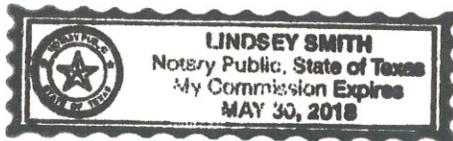
Jacquelyn Boutwell, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 29th day of October, A.D. 2014.



Notary Signature



Notary without Bond