

Stan H. Kyle

RN108725334

Docket No. 2016-0377-MSW-E

**Order Type:**

Default Order

**Media:**

MSW

**Small Business:**

N/A

**Location(s) Where Violation(s) Occurred:**

1085 County Road 2650, Shelbyville, Shelby County

**Type of Operation:**

an unauthorized municipal solid waste ("MSW") disposal site

**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:** September 23, 2016**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$1,312**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$1,312**Compliance History Classifications:**

Person/CN – Unclassified

Site/RN – Unclassified

**Major Source:** No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** April 2014

Stan H. Kyle  
RN108725334

Docket No. 2016-0377-MSW-E

**Investigation Information**

**Complaint Date(s):** June 17, 2015  
**Complaint Information:** Reported that a cattle trailer full of bagged garbage was discharging into Toledo Bend due to rainfall.

**Date(s) of Investigation:** March 1, 2016

**Date(s) of NOV(s):** September 10, 2015

**Date(s) of NOE(s):** March 8, 2016

**Violation Information**

Caused, suffered, allowed, or permitted the unauthorized disposal of MSW (approximately 19.5 cubic yards of MSW including household waste, construction and vegetative debris, and roofing shingles) [30 TEX. ADMIN. CODE § 330.15(c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

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

**Litigation Information**

**Date Petition(s) Filed:** July 20, 2016

**Date Green Card(s) Signed:** July 26, 2016

**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Clayton Smith, Litigation Division, (512) 239-3400  
Ryan Rutledge, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Jessica Bland, Enforcement Division, (512) 239-4967

**TCEQ Regional Contact:** Marilyn Gates, Beaumont Regional Office, (409) 898-3838

**Respondent Contact:** Stan H. Kyle, 1085 County Road 2650, Shelbyville, Texas 75973

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	14-Mar-2016	<b>Screening</b>	15-Mar-2016	<b>EPA Due</b>	
	<b>PCW</b>	13-Jun-2016				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Stan H. Kyle				
<b>Reg. Ent. Ref. No.</b>	RN108725334				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	52021	<b>No. of Violations</b>	1
<b>Docket No.</b>	2016-0377-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jessica Bland
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,250</b>
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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.

<b>Compliance History</b>	<b>5.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$62</b>
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<b>Notes</b>	Enhancement due to one NOV with same/similar violations.
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<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$24	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$349	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,312</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$1,312</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,312</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$1,312</b>
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**Screening Date** 15-Mar-2016

**Docket No.** 2016-0377-MSW-E

**PCW**

**Respondent** Stan H. Kyle

*Policy Revision 4 (April 2014)*

**Case ID No.** 52021

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN108725334

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Jessica Bland

### Compliance History Worksheet

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

Component	Number of...	Number	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 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%
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)

Unclassified

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement due to one NOV with same/similar violations.

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

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

Screening Date 15-Mar-2016

Docket No. 2016-0377-MSW-E

PCW

Respondent Stan H. Kyle

Policy Revision 4 (April 2014)

Case ID No. 52021

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108725334

Media [Statute] Municipal Solid Waste

Enf. Coordinator Jessica Bland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description The Respondent caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 19.5 cubic yards of MSW including household waste, construction and vegetative debris, and roofing shingles were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	5.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 14

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 1, 2016 investigation date to the March 15, 2016 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24 Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

## Economic Benefit Worksheet

**Respondent** Stan H. Kyle  
**Case ID No.** 52021  
**Reg. Ent. Reference No.** RN108725334  
**Media** Municipal Solid Waste  
**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
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### 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	\$349	16-Jul-2015	9-Dec-2016	1.40	\$24	n/a	\$24
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 a facility authorized to accept waste. The Date Required is the initial investigation date and the 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

\$349

**TOTAL**

\$24

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.



# TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN604910513, RN108725334, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN604910513, Kyle, Stan H      **Classification:** UNCLASSIFIED      **Rating:** -----

**Regulated Entity:** RN108725334, Stan Kyle Property      **Classification:** UNCLASSIFIED      **Rating:** -----

**Complexity Points:** 0      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1085 COUNTY ROAD 2650 SHELBYVILLE, TX 75973-4837, SHELBY COUNTY

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**  
**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER**  
R10108725334

**Compliance History Period:** September 01, 2010 to August 31, 2015      **Rating Year:** 2015      **Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** March 15, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 15, 2011 to March 15, 2016

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Jessica Bland      **Phone:** (512) 239-4967

## **Site and Owner/Operator History:**

- 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** 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:**

N/A

### **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.



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
STAN H. KYLE;  
RN108725334**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER**

**DOCKET NO. 2016-0377-MSW-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary 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 Stan H. Kyle ("Respondent").

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

**FINDINGS OF FACT**

1. Respondent owns property located at 1085 County Road 2650 in Shelbyville, Shelby County, Texas (the "Site"). The Site contains and/or involves the management of municipal solid waste ("MSW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on March 1, 2016, an investigator documented that Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately 19.5 cubic yards of MSW including household waste, construction and vegetative debris, and roofing shingles were disposed of at the Site.
3. 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 Stan H. Kyle" (the "EDPRP") in the TCEQ Chief Clerk's office on July 20, 2016.
4. By letter dated July 20, 2016, sent to Respondent's last known address via certified mail, return receipt requested, 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 July 26, 2016, as evidenced by the signature on the card.
5. 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.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Findings of Fact Nos. 3 and 4, 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(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 one thousand three hundred twelve dollars (\$1,312.00) 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 one thousand three hundred twelve dollars (\$1,312.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
2. The 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 TCEQ and shall be sent with the notation "Re: Stan H. Kyle; Docket No. 2016-0377-MSW-E" to:

Financial Administration Division  
Revenue Operations 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, cease disposing of any additional MSW at the Site.
  - b. Within 30 days after the effective date of this Order, remove all MSW from the Site and dispose of it at an authorized facility.
  - c. Within 45 days after the effective date of this Order, 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 signed by Respondent, 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."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent 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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1830

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.
6. 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 sent to the Order Compliance Team at the address listed above.

7. 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.
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. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed 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

\_\_\_\_\_  
Date

**AFFIDAVIT OF CLAYTON SMITH**

**STATE OF TEXAS**                   §  
  §  
**COUNTY OF TRAVIS**           §

"My name is Clayton Smith. 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 Stan H. Kyle" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 20, 2016.

The EDPRP was mailed to Respondent's last known address on July 20, 2016, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on July 26, 2016, 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."



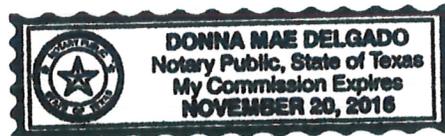
\_\_\_\_\_  
Clayton Smith, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Clayton Smith, 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.

Subscribed and sworn to before me on this 30th day of August, A.D. 2016.



\_\_\_\_\_  
Notary Public, State of Texas



Notary without Bond