

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60184  
Kenneth Marriott and William Dennis Cowart  
RN109966317  
Docket No. 2020-1594-AIR-E

Page 1 of 2

**Order Type:**  
Default Order

**Media:**  
AIR

**Small Business:**  
N/A

**Location(s) Where Violation(s) Occurred:**  
173 Danny Reed Road, Huntington, Angelina County (the “Site”)

**Type of Operation:**  
residential property

**Other Significant Matters:**

Additional Pending Enforcement Actions:	Yes, 2018-1505-MSW-E
Past-Due Penalties:	None
Past-Due Fees:	\$3,280
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** July 5, 2024

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,912

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$1,912

**Compliance History Classifications:**

Person/CN – Unsatisfactory  
Site/RN – Unsatisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** June 18, 2020

**Date(s) of NOV(s):** December 18, 2019

**Date(s) of NOE(s):** December 18, 2019

**Violation Information**

Caused, suffered, allowed, or permitted outdoor burning within the State of Texas [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN CODE § 111.201].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately cease outdoor burning and implement measures to ensure that outdoor burning is not permitted at the Site.
2. Within 30 days Respondents shall properly dispose of all unauthorized waste remaining in the burn piles. Respondents shall provide a written statement detailing the authorized method of disposal that will be used in the future in lieu of unauthorized burning.
3. Within 45 days Respondents shall certify compliance with Technical Requirement Nos. 1 and 2.

**Litigation Information**

**Date Petition(s) Filed:** February 28, 2022; May 9, 2022  
**Date(s) of Service:** unclaimed; unclaimed  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** David Keagle, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363  
**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575  
**TCEQ Enforcement Coordinator:** Ramya Wendt, Enforcement Division, (512) 239-2513  
**TCEQ Regional Contact:** Sarah Kirksey, Beaumont Regional Office, (409) 898-3838  
**Respondent Contact:** Kenneth Marriott, Tenant, Kenneth Marriott and William Dennis Cowart,  
173 Danny Reed Road, Huntington, Texas 75949  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	7-Dec-2020	<b>Screening</b>	18-Dec-2020	<b>EPA Due</b>	
	<b>PCW</b>	17-Dec-2020				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Kenneth Marriott and William Dennis Cowart				
<b>Reg. Ent. Ref. No.</b>	RN109966317				
<b>Facility/Site Region</b>	10-Beaumont		<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	60184	<b>No. of Violations</b>	1
<b>Docket No.</b>	2020-1594-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Courtney Atkins
		<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>40.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$500</b>
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Notes: Enhancement for Unsatisfactory Performer classification, one NOV with same/similar violations, and one Default Order without a denial of liability.

<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondents do not meet the culpability criteria.

<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>	<b>Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$177
Estimated Cost of Compliance	\$306

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,750</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>9.3%</b>	<b>Adjustment</b>	<b>\$162</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with the violation.

<b>Final Penalty Amount</b>	<b>\$1,912</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,912</b>
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<b>DEFERRAL</b>	<b>0.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,912</b>
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<b>Screening Date</b>	18-Dec-2020	<b>Docket No.</b>	2020-1594-AIR-E	<b>PCW</b>
<b>Respondent</b>	Kenneth Marriott and William Dennis Cowart			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	60184			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN109966317			
<b>Media</b>	Air			
<b>Enf. Coordinator</b>	Courtney Atkins			

## 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	1	25%
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)** 30%

### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Unsatisfactory Performer

**Adjustment Percentage (Subtotal 7)** 10%

### >> Compliance History Summary

**Compliance History Notes**

Enhancement for Unsatisfactory Performer classification, one NOV with same/similar violations, and one Default Order without a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 40%

<b>Screening Date</b>	18-Dec-2020	<b>Docket No.</b>	2020-1594-AIR-E	<b>PCW</b>
<b>Respondent</b>	Kenneth Marriott and William Dennis Cowart			Policy Revision 4 (April 2014)
<b>Case ID No.</b>	60184			PCW Revision March 26, 2014
<b>Reg. Ent. Reference No.</b>	RN109966317			
<b>Media</b>	Air			
<b>Enf. Coordinator</b>	Courtney Atkins			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 6.4 cubic yards of municipal solid waste ("MSW") consisting of furniture, electronics, paint cans, and insulation were burned at the Site.			
			<b>Base Penalty</b>	\$25,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Release</b>	<b>Harm</b>		
		Major	Moderate	Minor	
	Actual			x	
	Potential				
				<b>Percent</b>	5.0%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
<b>Matrix Notes</b>	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.				
				<b>Adjustment</b>	\$23,750

\$1,250

**Violation Events**

Number of Violation Events	1	Number of violation days	1
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	daily		weekly		monthly		quarterly		semiannual		annual		single event	x
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\$1,250

One single event is recommended.

**Good Faith Efforts to Comply**

	<b>0.0%</b>			
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	x			
<b>Notes</b>	The Respondents do not meet the good faith criteria for this violation.			
			<b>Violation Subtotal</b>	\$1,250

**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	\$177	<b>Statutory Limit Test</b>	
		<b>Violation Final Penalty Total</b>	\$1,912
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,912

# Economic Benefit Worksheet

**Respondent** Kenneth Marriott and William Dennis Cowart  
**Case ID No.** 60184  
**Reg. Ent. Reference No.** RN109966317  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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	\$153	7-Nov-2019	3-Oct-2021	1.91	\$15	n/a	\$15
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

Estimated delayed cost to properly dispose of approximately 3.6 cubic yards of MSW at an authorized facility. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$153	6-Nov-2019	18-Dec-2020	1.12	\$9	\$153	\$162
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Estimated avoided cost to properly dispose of approximately 6.4 cubic yards of MSW at an authorized facility rather than burning. The Date Required is one day prior to the initial investigation date and the Final Date is the screening date.

### Approx. Cost of Compliance

\$306

### TOTAL

\$177

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# Compliance History Report

Compliance History Report for CN605421056, RN109966317, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN605421056, Kenneth Marriott **Classification:** UNSATISFACTORY **Rating:** 154.00

**Regulated Entity:** RN109966317, 173 Danny Reed Road **Classification:** UNSATISFACTORY **Rating:** 154.00

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

**CH Group:** 14 - Other

**Location:** 173 Danny Reed Road, Huntington, Angelina County, Texas 75949-8836

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**  
**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER**  
 455100125

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** December 15, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 15, 2015 to December 15, 2020

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Courtney Atkins **Phone:** (512) 239-1118

## 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

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

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

- 1 Effective Date: 04/13/2020 ADMINORDER 2018-1505-MSW-E (Findings Order-Default)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)  
 30 TAC Chapter 330, SubChapter A 330.15(c)  
 Description: Caused, suffered, allowed, or permitted the unauthorized disposal of MSW.
- 2 Effective Date: 07/06/2020 ADMINORDER 2018-1505-MSW-E (Findings Order-Default)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)  
 30 TAC Chapter 330, SubChapter A 330.15(c)  
 Description: Caused, suffered, allowed, or permitted the unauthorized disposal of MSW.

### **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.

1	Date:	12/18/2019	(1606272)	
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 111, SubChapter B 111.201		
	Description:	- Failure to meet exemptions for outdoor burning. B18.e.7 [Mod]		

#### 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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# Compliance History Report

Compliance History Report for CN605569698, RN109966317, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN605569698, William Dennis Cowart **Classification:** UNSATISFACTORY **Rating:** 154.00

**Regulated Entity:** RN109966317, 173 Danny Reed Road **Classification:** UNSATISFACTORY **Rating:** 154.00

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

**CH Group:** 14 - Other

**Location:** 173 Danny Reed Road, Huntington, Angelina County, Texas 75949-8836

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**  
**MUNICIPAL SOLID WASTE NON-PERMITTED ID NUMBER**  
 455100125

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** December 18, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 18, 2015 to December 18, 2020

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Courtney Atkins **Phone:** (512) 239-1118

## 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

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

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

- 1 Effective Date: 04/13/2020 ADMINORDER 2018-1505-MSW-E (Findings Order-Default)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)  
 30 TAC Chapter 330, SubChapter A 330.15(c)  
 Description: Caused, suffered, allowed, or permitted the unauthorized disposal of MSW.
- 2 Effective Date: 07/06/2020 ADMINORDER 2018-1505-MSW-E (Findings Order-Default)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)  
 30 TAC Chapter 330, SubChapter A 330.15(c)  
 Description: Caused, suffered, allowed, or permitted the unauthorized disposal of MSW.

### **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.

1	Date:	12/18/2019	(1606272)	
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 111, SubChapter B 111.201		
	Description:	- Failure to meet exemptions for outdoor burning. B18.e.7 [Mod]		

#### 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  
KENNETH MARRIOTT AND  
WILLIAM DENNIS COWART;  
RN109966317**

**§  
§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2020-1594-AIR-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. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Kenneth Marriott and William Dennis Cowart ("Respondents").

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

### **FINDINGS OF FACT**

1. William Dennis Cowart owns a residential property located at 173 Danny Reed Road in Huntington, Angelina County, Texas (the "Site"). Kenneth Marriot occupies, as a tenant, the Site. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on June 18, 2020, an investigator documented that Respondents caused, suffered, allowed, or permitted outdoor burning within the state of Texas. Specifically, approximately 6.4 cubic yards of municipal solid waste consisting of furniture, electronics, paint cans, and insulation were burned 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 Kenneth Marriott and William Dennis Cowart" (the "EDPRP") in the TCEQ Chief Clerk's office on February 28, 2022.
4. The EDPRP was mailed to Respondents' last known address on February 28, 2022, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on May 9, 2022.
6. By letter dated May 9, 2022, sent to Respondents' last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first-class mail has not been returned, indicating that Respondents received notice of the EDPRP.
7. More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondents caused, suffered, allowed, or permitted outdoor burning within the state of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN CODE § 111.201.
3. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, Respondents 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 Respondents 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 Respondents 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 \$1,912 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. Respondents are assessed an administrative penalty in the amount of \$1,912 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondents' 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: Kenneth Marriott and William Dennis Cowart; Docket No. 2020-1594-AIR-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. Respondents shall undertake the following technical requirements:
  - a. Immediately cease outdoor burning and implement measures to ensure that outdoor burning is not permitted at the Site.

- b. Within 30 days of the effective date of this Order, Respondents shall properly dispose of all unauthorized waste remaining in the burn piles. Respondents shall provide a written statement detailing the authorized method of disposal that will be used in the future in lieu of unauthorized burning.
- c. Within 45 days of the effective date of this Order, Respondents shall certify compliance with Ordering Provisions 3.a and 3.b. The certification shall include adoption of the following affirmative statement:

“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.”
4. Respondents shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Air Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1830
5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Respondents.
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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Enforcement Division at the address listed above.
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 Respondents if the Executive Director determines that Respondents have 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

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For the Commission

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Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF DAVID KEAGLE

"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 Kenneth Marriott and William Dennis Cowart' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 28, 2022.

The EDPRP was mailed to each Respondent's last known address on February 28, 2022, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on May 9, 2022.

The EDPRP was mailed to each Respondent's last known address on May 9, 2022, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first-class mail has not been returned, indicating that each Respondent received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

"My name is David Keagle, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 24th day of May, 2024

A handwritten signature in blue ink that reads "David C. Keagle".

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Declarant