

Lonnie Wooten
 RN111189536
 Docket No. 2021-0786-MLM-E

Order Type:

Default Order (SOAH evidentiary hearing)

Media:

MLM: AIR and MSW

Small Business:

N/A

Location Where Violations Occurred:

8274 West Old Sterling City Highway, San Angelo, Tom Green County (the "Site")

Type of Operation:

unauthorized municipal solid waste ("MSW") 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:

November 8, 2024

Comments Received:

None

Penalty Information**Total Penalty Assessed:**

\$11,629

Total Paid to General Revenue:

\$0

Total Due to General Revenue:

\$11,629

Compliance History Classifications:

Person/CN - N/A
 Site/RN - N/A

Major Source:

No

Statutory Limit Adjustment:

None

Applicable Penalty Policy:

January 28, 2021

Investigation Information**Complaint Dates:**

December 30, 2020; April 27, 2021

Complaint Information:

On December 30, 2020, and April 27, 2021, the Texas Commission on Environmental Quality (TCEQ) received a complaint alleging an unauthorized activity.

Dates of Investigation:

January 28, 2021; April 8, 2021

Date of NOV:

February 24, 2021

Date of NOE:

May 20, 2021

Lonnie Wooten
RN111189536
Docket No. 2021-0786-MLM-E

Violation Information

1. Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(a) and (c)].
2. 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:

Respondent no longer owns the Site, as of August 19, 2021.

Technical Requirements:

None.

Litigation Information

Dates Petitions Filed: October 31, 2022; November 27, 2023.
Dates of Service: unclaimed; November 29, 2023.
Date Answer Filed: November 16, 2022
SOAH Referral Date: April 18, 2023
Hearing Date:
Evidentiary hearing: September 3, 2024

Contact Information

TCEQ Attorneys: Cynthia Sirois, 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: Karolyn Kent, Enforcement Division, 512-239-2536
TCEQ Regional Contact: Matthew Perez, San Angelo Regional Office, (325) 655-9479
Respondent Contact: Lonnie Wooten, 316 Hudson Lane, Coleman, Texas 76834.
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-May-2021	Screening	11-Jun-2021	EPA Due	
	PCW	19-Aug-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Lonnie Wooten
Reg. Ent. Ref. No.	RN111189536
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60893	No. of Violations	2
Docket No.	2021-0786-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	Courtney Gooris
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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% Adjustment	Subtotals 2, 3, & 7	\$375
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Notes: Enhancement for one NOV with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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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
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Total EB Amounts	\$3,754
Estimated Cost of Compliance	\$3,654

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	47.7% Adjustment	\$3,754
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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 Violation No. 1 and No. 2.

Final Penalty Amount	\$11,629
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,629
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$11,629
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Screening Date 11-Jun-2021

Docket No. 2021-0786-MLM-E

PCW

Respondent Lonnie Wooten

Policy Revision 5 (January 28, 2021)

Case ID No. 60893

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111189536

Media Municipal Solid Waste

Enf. Coordinator Courtney Gooris

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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 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 11-Jun-2021 **Docket No.** 2021-0786-MLM-E **PCW**
Respondent Lonnie Wooten *Policy Revision 5 (January 28, 2021)*
Case ID No. 60893 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111189536
Media Municipal Solid Waste
Enf. Coordinator Courtney Gooris

Violation Number 1

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

Violation Description
 Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 186.69 cubic yards of MSW, consisting of dilapidated structures, household and plastic furniture, electronic components, steel materials, tires and wheels, construction and demolition debris, ashen material, and household garbage were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1 64 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the April 8, 2021 follow-up investigation date to the June 11, 2021 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 \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$2,325 **Violation Final Penalty Total** \$5,815

This violation Final Assessed Penalty (adjusted for limits) \$5,815

Economic Benefit Worksheet

Respondent Lonnie Wooten
Case ID No. 60893
Reg. Ent. Reference No. RN111189536
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	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				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

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				0.00	\$0	\$0	\$0
Other (as needed)	\$2,263	28-Jan-2021	19-Aug-2021	0.56	\$62	\$2,263	\$2,325

Notes for AVOIDED costs

Estimated avoided cost to remove all MSW from the Site and dispose of it at an authorized facility. The Date Required is the original complaint investigation date and the Final Date is the date the Respondent conveyed his interest in the property.

Approx. Cost of Compliance \$2,263

TOTAL \$2,325

Screening Date 11-Jun-2021 **Docket No.** 2021-0786-MLM-E **PCW**
Respondent Lonnie Wooten *Policy Revision 5 (January 28, 2021)*
Case ID No. 60893 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111189536
Media Municipal Solid Waste
Enf. Coordinator Courtney Gooris

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 108.69 cubic yards of MSW consisting of linoleum tile, composite shingles, carpet, bed mattresses, plastic furniture, fiberglass insulation, fiberglass cloth, electronic components, 50-gallon drums, steel tire belts, steel wheels, construction and demolition debris, and approximately 21 tires were burned at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	15.0%
	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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$1,429 **Violation Final Penalty Total** \$5,815

This violation Final Assessed Penalty (adjusted for limits) \$5,815

Economic Benefit Worksheet

Respondent Lonnie Wooten
Case ID No. 60893
Reg. Ent. Reference No. RN111189536
Media Municipal Solid Waste
Violation No. 2

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				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

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	\$1,391	27-Jan-2021	19-Aug-2021	0.56	\$38	\$1,391	\$1,429
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly dispose of approximately 108.69 cubic yards of MSW (\$1,286) and 21 tires (\$105) at an authorized facility rather than burning. The Date Required is one day prior to the original complaint investigation date and the Final Date is the date the Respondent conveyed his interest in the property.

Approx. Cost of Compliance

\$1,391

TOTAL

\$1,429

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

Compliance History Report for CN605857721, RN111189536, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605857721, Lonnie Wooten

Classification: NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN111189536, 8274 West Old Sterling City Highway

Classification: NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 8274 West Old Sterling City Highway, San Angelo, Tom Green County, Texas 76901

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
R08111189536

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

Date Compliance History Report Prepared: June 10, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 10, 2016 to June 10, 2021

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:

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.

- 1 Date: 02/24/2021 (1702156)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382 382.085(b)
 - Description: Failure to comply with General Prohibition requirements concerning outdoor burning.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)
30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failure to comply with General Prohibition requirements regarding Municipal Solid Waste (MSW).

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
LONNIE WOOTEN;
RN111189536

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2021-0786-MLM-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Lonnie Wooten ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned an unauthorized municipal solid waste ("MSW") site located at 8274 West Old Sterling City Highway near San Angelo, Tom Green County, Texas (the "Site"). The Site contains and/or involves the management of MSW, including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site also consists of one or more sources, as defined in TEX. HEALTH & SAFETY CODE § 382.003.
2. During investigations conducted on January 28, 2021, and April 8, 2021, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately 186.69 cubic yards of MSW consisting of dilapidated structures, household and plastic furniture, electronic components, steel materials, tires and wheels, construction and demolition debris, ashen material, and household garbage were disposed of at the Site; and
 - b. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 108.69 cubic yards of MSW consisting of linoleum tile, composite shingles, carpet, bed mattresses, plastic furniture, fiberglass insulation, fiberglass cloth, electronic components, 50-gallon drums, steel tire belts, steel wheels, construction and demolition debris, and approximately 21 tires were burned at the Site.
3. The Executive Director recognizes that Respondent no longer owns the Site, as of August 19, 2021.
4. 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 Lonnie Wooten" (the "EDFARP") in the TCEQ Chief Clerk's office on October 31, 2022.
5. Respondent filed an answer requesting a hearing on November 16, 2022, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 18, 2023.
6. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an

Enforcement Order Assessing an Administrative Penalty Against Lonnie Wooten” (the “EDSARP”) in the TCEQ Chief Clerk’s office on November 27, 2023.

7. On July 12, 2024, the Administrative Law Judge (“ALJ”) issued Order No. 5, which reset a previously scheduled evidentiary hearing to September 3, 2024. The SOAH docket clerk mailed a copy of Order No. 5 to Respondent at his last known address via first class mail, postage pre-paid.
8. On September 3, 2024, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
9. On September 3, 2024, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 6 so that TCEQ may dispose of this case on a default basis.

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 chs. 361 and 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
3. As evidenced by Finding of Fact No. 2.b., Respondent 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.
4. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 7, Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV’T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.405, 39.413, 39.425, and 80.6.
6. As evidenced by Findings of Fact Nos. 8 and 9, Respondent failed to appear for the evidentiary hearing, and pursuant to TEX. GOV’T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(e), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
7. 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.
8. An administrative penalty in the amount of \$11,629 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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 \$11,629 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: Lonnie Wooten; Docket No. 2021-0786-MLM-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.
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 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.
8. 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.
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 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF CYNTHIA K. SIROIS

“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 Lonnie Wooten’ (the “EDFARP”) was filed in the TCEQ Chief Clerk’s office on October 31, 2022.

Respondent filed an answer requesting a hearing on November 16, 2023, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on April 18, 2023.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Lonnie Wooten’ (the “EDSARP”) was filed in the TCEQ Chief Clerk’s office on November 27, 2023.

On July 12, 2024, the ALJ issued Order No. 5, which reset a previously scheduled evidentiary hearing to September 3, 2024. The SOAH docket clerk mailed a copy of Order No. 5 to Respondent at his last known address via first class mail, postage pre-paid.

Respondent failed to appear at the hearing on September 3, 2024. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 Tex. Admin. Code § 155.501(e), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with Tex. Gov’t Code § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 6, issued on September 3, 2024, so that TCEQ may dispose of this case on a default basis.”

"My name is Cynthia K. Sirois, 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 17th day of October 2024.

Cynthia K Sirois

Declarant