

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 17, 2024

To: Persons on the Attached Mailing List (Via Email Only)

Re: Executive Director's Request for Remand regarding a Default Order concerning Edward L. Bradley;  
TCEQ Docket No. 2021-1372-AIR-E

The above-referenced matter is currently scheduled to be considered by the Texas Commission on Environmental Quality at its April 24, 2024, public meeting. The Executive Director filed a request on April 17, 2024, to remand this matter due to potential notice deficiencies. Pursuant to 30 TAC § 10.4, this matter is hereby remanded to the Executive Director.

If you have any questions about this matter, please contact Tracy Gross, Assistant General Counsel, at [Tracy.Gross@tceq.texas.gov](mailto:Tracy.Gross@tceq.texas.gov).

Sincerely,

A handwritten signature in black ink that reads "Mary Smith".

Mary Smith  
General Counsel

Mailing List

Mailing List  
Edward L. Bradley  
TCEQ Docket No. 2021-1372-AIR-E

Erich M. Birch  
Birch, Becker & Moorman, LLP  
1000 Heritage Center Circle, Suite 146  
Round Rock, Texas 78664  
512/349-9300 FAX 512/349-9303  
[ebirch@birchbecker.com](mailto:ebirch@birchbecker.com)

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Michael Parrish  
Leslie Gann  
Stuart Beckley  
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Austin, Texas 78711-3087  
512/239-2545 FAX 512/239-2550  
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[Leslie.gann@tceq.texas.gov](mailto:Leslie.gann@tceq.texas.gov)  
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[Katherine.mckenzie@tceq.texas.gov](mailto:Katherine.mckenzie@tceq.texas.gov)

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Danielle Porras  
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Houston, Texas 77023-1452  
713/767-3500 FAX 713/767-3520  
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Sheldon Wayne  
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[Sheldon.Wayne@tceq.texas.gov](mailto:Sheldon.Wayne@tceq.texas.gov)

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512/239-0687 FAX 512-239-4015  
[Kyle.lucas@tceq.texas.gov](mailto:Kyle.lucas@tceq.texas.gov)

# TCEQ Interoffice Memorandum

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**To:** Mary Smith, General Counsel  
Tracy Gross, Assistant General Counsel

**Thru:** Anna Treadwell, Senior Attorney  
*AWT* Litigation Division

**From:** *J P* Jennifer Peltier, Staff Attorney  
Litigation Division

**Date:** April 17, 2024

**Subject:** **Request for Remand**  
**April 24, 2024 Commission Agenda**  
Item No. 5 - Edward L. Bradley  
Docket No. 2021-1372-AIR-E.

The Executive Director respectfully requests that the above-referenced item be remanded to the Executive Director. Respondent provided information demonstrating that he did not receive the petition on April 11, 2024.

Counsel for Respondent:

Erich Birch  
Birch, Becker & Moorman, LLP  
1000 Heritage Center Circle, Suite 146  
Round Rock, Texas 78664  
Phone: 512.349.9300 main  
Fax: 512.349.9303  
Email: [ebirch@birchbecker.com](mailto:ebirch@birchbecker.com)

Respondent Contact:

Edward Bradley  
P.O Box 76  
Santa Fe, Texas 77517

Respondent has been notified of this Request for Remand. Please do not hesitate to call me at (512) 239-0544 if you have any questions regarding this matter.

cc: Danielle Porras, Enforcement Coordinator  
Joseph Doby, Houston Regional Office  
Sheldon Wayne, Office of Public Interest Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division  
Gill Valls, Office of the General Counsel  
Erich Birch

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 11, 2024

To: Persons on the Attached Mailing List (Via Email Only)

Re: Continuance of Default Order concerning Edward L. Bradley; TCEQ Docket No. 2021-1372-AIR-E.

The above-referenced matter is scheduled to be considered by the Texas Commission on Environmental Quality (TCEQ) at its April 12, 2024, public meeting. On April 11, 2024, Erich Birch filed a request on behalf of Edward L. Bradley (Respondent) for a continuance of this matter. Mr. Birch's request alleged that the Respondent and his counsel failed to receive notice of the Executive Director's Preliminary Report and Petition and Default Order due to mailing errors, and only recently discovered that this matter had been set on the April 12, 2024, public meeting.

Pursuant to 30 TAC § 10.4 and the TCEQ's Resolution issued on February 2, 2009, Docket No. 2009-0059-RES, this matter is hereby continued and is set on the TCEQ's **April 24, 2024**, public meeting beginning at 9:30 A.M. Due to an ongoing construction project impacting TCEQ's meeting spaces, the agenda meeting will be held in Room 244 of the Texas Workforce Commission located at 101 East 15<sup>th</sup> Street in Austin, Texas, virtually, or both in person and virtually.

If you have any questions about the public meeting or related matters, please contact Tracy Gross at [tracy.gross@tceq.texas.gov](mailto:tracy.gross@tceq.texas.gov).

Sincerely,

A handwritten signature in black ink that reads "Mary Smith".

Mary Smith  
General Counsel

Mailing List

Mailing List  
Edward L. Bradley  
TCEQ Docket No. 2021-1372-AIR-E

Erich M. Birch  
Birch, Becker & Moorman, LLP  
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Email: [ebirch@birchbecker.com](mailto:ebirch@birchbecker.com)

April 11, 2024

**VIA EMAIL AND HAND DELIVERY**

Mary Smith  
General Counsel (MC 101)  
Texas Commission on Environmental Quality  
Building F, Room 4225  
12100 Park 35 Circle  
Austin, TX 78753

Email: [Mary.Smith@tceq.texas.gov](mailto:Mary.Smith@tceq.texas.gov)

Re: Request for Continuance, *In the Matter of an Enforcement Action Concerning Edward L. Bradley; RN106145303*, Default Order, Docket No. 2021-1372-AIR-E; Item 9 on TCEQ Commission Meeting Agenda, April 12, 2024

Dear Ms. Smith:

This letter requests a continuance of the above referenced matter concerning a Texas Commission on Environmental Quality (“TCEQ”) Default Order assessing administrative penalties against Edward L. Bradley. The matter is Item 9 on the Agenda for the April 12, 2024 TCEQ Commission Meeting. I am Mr. Bradley’s attorney, and in 2021, I represented him concerning the allegations in this pending matter. I typically review the Commission Meeting Agenda for upcoming meetings, and during my review of the Agenda for the April 12 Commission Meeting, I discovered that a Default Order involving Mr. Bradley was included.

I immediately attempted to contact Mr. Bradley, and after several attempts, Mr. Bradley and I spoke yesterday, at which time he provided the information set out below regarding the addresses used by TCEQ to provide notice of the proposed Agreed Order. That information, coupled with the information regarding my mailing address, demonstrate that Mr. Bradley had no prior notice of the proposed Agreed Order or the pending Default Order.

A copy of the Executive Director’s cover letter, dated April 24, 2023, which was used to convey the Executive Director’s Preliminary Report and Petition (“EDPRP”) to Mr. Bradley is attached to this letter. Below are the four addresses copied from the cover letter followed by the explanation of why Mr. Bradley did not receive the notice.

1. Via Certified Mail, Return Receipt Requested  
Article Number 7021 0350 0000 4995 1596  
Via First Class Mail, postage prepaid  
Edward L. Bradley, Business Owner

P.O. Box 76  
Santa Fe, Texas 77517

At one time this was an active mailbox for Mr. Bradley; however, it was not active in April 2023. In approximately December 2022, Mr. Bradley abandoned the P.O. Box and stopped paying the rental fees to the U.S. Postal Service (“Postal Service”). According to the Postal Service, if payment for a P.O. Box has not been received within ten days after the due date, the P.O. Box will be closed and mail will be returned as undeliverable.<sup>1</sup> Mr. Bradley did not receive notice of the EDPRP or the pending Default Order at this address.<sup>2</sup>

2. Via Certified Mail, Return Receipt Requested  
Article Number 7021 0350 0000 4995 1619  
Via First Class Mail, postage prepaid  
Edward L. Bradley  
15111 Highway 6  
Santa Fe, Texas 77517

At one time this was an active address for Mr. Bradley; however, it was not active in April 2023. Mr. Bradley sold this property in approximately March 2021 and has not received mail at this address for several years.

3. Via Certified Mail, Return Receipt Requested  
Article Number 7021 0350 0000 4995 1602  
Via First Class Mail, postage prepaid  
Edward L. Bradley  
19753 Highway 35  
Alvin, Texas 77511

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<sup>1</sup> On its website addressing “Frequently Asked Questions,” the Postal Service poses the question “Why was my PO Box closed?” and provides the following response:

A PO Box may be closed if fees have not been paid by the due date. After the fees have become past due, access to the box is blocked. The boxholder has 10 days to pay past due fees and pickup held mail. After that ten days (ten days after the due date), the box is closed and your mail is returned as undeliverable.

See U.S. Postal Service, “PO Box™ – the Basics” at <https://faq.usps.com/s/article/PO-Box-The-Basics>

<sup>2</sup> Please note that as of February 2024, Mr. Bradley decided to again acquire a P.O. Box and was surprised to learn that his former P.O. Box address, *i.e.*, P.O. Box 76, was still available. The Postal Service once again assigned P.O. Box 76 to Mr. Bradley. However, P.O. Box 76 was not a valid address for Mr. Bradley from December 2022 until the new P.O. Box with the same number was opened by Mr. Bradley in February 2024.

This was a previous leased office location. Mr. Bradley terminated the lease and ceased using this office approximately seven years ago, and has not received mail at this address since that time.

4. Via Certified Mail, Return Receipt Requested  
Article Number 7021 0350 0000 4995 1626  
Via First Class Mail, postage prepaid  
Erich Birch  
Birch, Becker & Moorman, LLP  
4705 Spicewood Springs Road, Suite 200  
Austin, Texas 78759

This was a former address for Birch, Becker & Moorman, LLP (BBM). However, in June 2021 BBM moved its offices from this address to its current address at 1000 Heritage Center Circle, Suite 146, Round Rock, Texas, 78664. BBM had its mail forwarded for the standard twelve-month period provided by the Postal Service, but it has not received mail at this address since June 2022.

Notice is a fundamental due process requirement for citizens of Texas and the United States, and Mr. Bradley had no actual notice of the EDPRP or the Default Order, and in the short period of time between when he learned of the Default Order and the April 12 TCEQ Commission Meeting, he cannot fully evaluate the Executive Director's allegations or prepare an adequate defense.

Mr. Bradley further requests that this matter be continued prior to the Commission Meeting scheduled for April 12. I am Mr. Bradley's lawyer, and I have previously-scheduled travel plans for the upcoming week and cannot attend the TCEQ Commission Meeting in person on April 12. Further, I have commitments on Friday, April 12 that would need to be rescheduled in order to attend the TCEQ Commission Meeting virtually. Therefore, Mr. Bradley and I respectfully request that the matter be continued today prior to the April 12 TCEQ Commission Meeting.

I certify that I conferred with Jennifer Peltier, attorney for the Executive Director of TCEQ on April 9, 2024, regarding a continuance of the matter involving Edward L. Bradley. Ms. Peltier stated that the Executive Director's policy is to oppose all requests for continuance and would not support Mr. Bradley's request.

I certify that I attempted to confer with the Office of Public Interest Counsel ("OPIC") of TCEQ on April 11, 2024, regarding this letter requesting a continuance of the matter involving Edward L. Bradley. I called Sheldon Wayne, the attorney for OPIC identified for this matter, and I also called OPIC's main phone number and left messages for Mr. Wayne and for Garrett Arthur, TCEQ's Public Interest Counsel.

Mary Smith  
General Counsel, TCEQ  
April 11, 2024  
Page 4 of 4

Please contact me with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Birch", written in a cursive style.

Erich M. Birch  
Attorney for Edward L. Bradley

ATTACHMENT

cc: Mr. Edward Bradley

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Erin E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 24, 2023

Via Certified Mail, Return Receipt Requested,  
Article Number 7021 0350 0000 4995 1596  
Via First Class Mail, postage prepaid

Edward L. Bradley, Business Owner  
P.O. Box 76  
Santa Fe, Texas 77517

Via Certified Mail, Return Receipt Requested,  
Article Number 7021 0350 0000 4995 1602  
Via First Class Mail, postage prepaid

Edward L. Bradley  
19753 Highway 35  
Alvin, Texas 77511

Via Certified Mail, Return Receipt Requested,  
Article Number 7021 0350 0000 4995 1619  
Via First Class Mail, postage prepaid

Edward L. Bradley  
15111 Highway 6  
Santa Fe, Texas 77517

Via Certified Mail, Return Receipt Requested,  
Article Number 7021 0350 0000 4995 1626  
Via First Class Mail, postage prepaid

Erich Birch  
Birch, Becker & Moorman, LLP  
4705 Spicewood Springs Road Suite 200  
Austin, Texas 78759

Re: Edward L. Bradley; RN106145303;  
TCEQ Docket No. 2021-1372-AIR-E

Dear Mr. Bradley:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against you for violations of state statutes and Commission Rules. Enclosed is a copy of 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 Edward L. Bradley" (the "EDPRP"), which was filed today with the Chief Clerk of the TCEQ.

**You may employ an attorney. If you or your attorney do not file a written answer with the Chief Clerk of the TCEQ within twenty days after you receive this notice and petition, and/or fail to settle this matter by entering into an Agreed Order, the Commission may issue a default order against you.** If a default order is issued, you will be required to pay the assessed penalty and complete any corrective actions recommended by the Executive Director.

**YOUR FAILURE TO ACCEPT OR PICK UP CERTIFIED MAIL WILL NOT RELIEVE YOU OF YOUR RESPONSIBILITY IN THIS MATTER.**

To request a hearing, send a written hearing request referencing TCEQ Docket No. 2021-1372-AIR-E to the persons listed below via e-mail, regular mail, fax, or e-filing:

Laurie Gharis, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, Texas 78711-3087  
(512) 239-3311 (fax)  
<https://www14.tceq.texas.gov/epic/eFiling/>

and:

Katherine Keithley, Staff Attorney  
Office of Legal Services, Litigation  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 175  
Austin, Texas 78711-3087  
[Katherine.Keithley@tceq.texas.gov](mailto:Katherine.Keithley@tceq.texas.gov)

and:

Sheldon Wayne, Staff Attorney  
Office of Public Interest Counsel  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 103  
Austin, Texas 78711-3087  
(512) 239-6377 (fax)  
[Sheldon.Wayne@tceq.texas.gov](mailto:Sheldon.Wayne@tceq.texas.gov)

To e-file your hearing request, go to <https://www14.tceq.texas.gov/epic/eFiling/> and follow the on-screen instructions. Hearing requests are due to the Chief Clerk by 5:00 p.m. CST on or before the 20-day deadline date referenced above. Hearing requests filed via e-filing must be in either Microsoft Word or Adobe Acrobat (pdf) format.

All or a portion of the recommended administrative penalty may be offset through the completion of or payment to a Supplemental Environmental Project ("SEP"), which directs all or a portion of your administrative penalty toward projects aimed at improving the environment. For further information on contributing to a SEP, please visit our website at <https://www.tceq.texas.gov/compliance/enforcement/sep>.

For further information concerning the enforcement process, contact the TCEQ Office of Public Interest Counsel at (512) 239-6363. For information concerning compliance assistance, contact the TCEQ Environmental Assistance Division at (800) 447-2827.

If you have any questions or would like to schedule a meeting to discuss settlement, payment plan options, or contribution to a SEP, please contact me at (512) 239-3400 or at my e-mail address listed below. I look forward to cooperatively resolving this matter with you.

Sincerely,



Katherine Keithley, Staff Attorney  
Office of Legal Services, Litigation  
Texas Commission on Environmental Quality  
[Katherine.Keithley@tceq.texas.gov](mailto:Katherine.Keithley@tceq.texas.gov)

Enclosure

cc: Danielle Porras, Enforcement  
Joseph Doby, Houston Regional Office  
Sheldon Wayne, TCEQ Office of Public Interest Counsel

Edward L. Bradley  
 RN106145303  
 Docket No. 2021-1372-AIR-E

**Order Type:**  
 Default Order

**Media:**  
 AIR

**Small Business:**  
 Yes

**Location(s) Where Violation(s) Occurred:**  
 349 Choate Drive, Alvin, Brazoria County (the “Site”)

**Type of Operation:**  
 rock crushing and screening facility

**Other Significant Matters:**

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

**Texas Register Publication Date:** February 23, 2024

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$5,250

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

**Total Due to General Revenue:** \$5,250

**Compliance History Classifications:**

Person/CN – Satisfactory  
 Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date(s):** March 23, 2020 and January 27, 2021

**Complaint Information:** March 23, 2020, regarding an unauthorized rock crusher  
 January 27, 2021, alleging health effects due to the operations at the alleged source

**Date(s) of Investigation:** September 20, 2021 through September 30, 2021

**Date(s) of NOV(s):** March 30, 2021

**Date(s) of NOE(s):** October 6, 2021

Edward L. Bradley  
RN106145303  
Docket No. 2021-1372-AIR-E

**Violation Information**

Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Either permanently cease operating the rock crusher that was developed by MB America, Inc., or submit an administratively complete standard permit registration or permit application to authorize the operation and associated emissions for the rock crusher that was developed by MB America, Inc.
  - b. Install water-sprays or dust suppression controls on the screening unit as represented in the registration for Permit By Rule Registration No. 98763L001 or submit an administratively complete permit application to authorize the operation and associated emissions for the screening unit.
2. If a registration or permit application is submitted, respond completely and adequately, to all requests for information concerning the registration or permit application within any deadlines specified in writing.
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement No. 1.
4. Within 180 days submit written certification that either the authorizations for the rock crusher that was developed by MB America, Inc., and/or for the screening unit have been obtained or that operations have ceased until such time that the appropriate authorizations are obtained.

**Litigation Information**

**Date Petition(s) Filed:** December 29, 2022; April 24, 2023  
**Date(s) of Service:** unclaimed; unclaimed  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jennifer Peltier, 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:** Kate Dacy, Enforcement Division, (512) 239-4593  
**TCEQ Regional Contact:** Joseph Doby, Houston Regional Office, (713) 767-3500  
**Respondent Contact:** Edward L. Bradley, Business Owner, Edward L. Bradley, P.O. Box 76, Santa Fe, Texas 77517  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	11-Oct-2021	<b>Screening</b>	12-Oct-2021	<b>EPA Due</b>	
	<b>PCW</b>	11-Aug-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Edward L. Bradley
<b>Reg. Ent. Ref. No.</b>	RN106145303
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61461	<b>No. of Violations</b>	2
<b>Docket No.</b>	2021-1372-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>	Kate Dacy
		<b>EC's Team</b>	Enforcement Team 4
<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>	\$5,000
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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>	5.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$250
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<b>Notes</b>	Enhancement for one NOV with same or similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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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>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$788	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$11,500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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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>	\$5,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,250
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$5,250
------------------------	---------

**Screening Date** 12-Oct-2021

**Docket No.** 2021-1372-AIR-E

**PCW**

**Respondent** Edward L. Bradley

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61461

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN106145303

**Media** Air

**Enf. Coordinator** Kate Dacy

### 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)**

Satisfactory Performer

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

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same or similar violations.

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

**>> Final Compliance History Adjustment**

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

<b>Screening Date</b> 12-Oct-2021	<b>Docket No.</b> 2021-1372-AIR-E	<b>PCW</b>
<b>Respondent</b> Edward L. Bradley		Policy Revision 5 (January 28, 2021)
<b>Case ID No.</b> 61461		PCW Revision February 11, 2021
<b>Reg. Ent. Reference No.</b> RN106145303		
<b>Media</b> Air		
<b>Enf. Coordinator</b> Kate Dacy		

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

**Violation Description**  
 Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, on September 28, 2021, TCEQ staff observed a rock crusher that was developed by MB America, Inc. in operation prior to obtaining the proper authorization.

**Base Penalty**

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

		Harm			
		Major	Moderate	Minor	
<b>OR</b>	Actual				<b>Percent</b> <input style="width: 60px;" type="text" value="0.0%"/>
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> <input style="width: 60px;" type="text" value="10.0%"/>

**Matrix Notes**  
 100% of the rule requirements were not met.

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty**

One monthly event is recommended from the September 28, 2021 investigation date to the September 28, 2021 date the rock crusher ceased operating.

**Good Faith Efforts to Comply**

Reduction

	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**

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

**Statutory Limit Test**

**Estimated EB Amount**       **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Edward L. Bradley  
**Case ID No.** 61461  
**Reg. Ent. Reference No.** RN106145303  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	\$5,000	28-Sep-2021	1-Jan-2023	1.26	\$315	n/a	\$315
Other (as needed)	\$1,500	28-Sep-2021	28-Sep-2021	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated costs to obtain authorization for the rock crusher that was developed by MB America, Inc. (\$5,000) and to cease operating the rock crusher that was developed by MB America, Inc. until the proper authorization is obtained (\$1,500). The Dates Required is the date the crusher was observed to be operating without authorization and the Final Dates are the date the rock crusher ceased operating and 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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$6,500

**TOTAL**

\$315

**Screening Date** 12-Oct-2021 **Docket No.** 2021-1372-AIR-E **PCW**  
**Respondent** Edward L. Bradley *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61461 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN106145303  
**Media** Air  
**Enf. Coordinator** Kate Dacy

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)  
**Violation Description** Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent represented in the registration for Permit by Rule Registration No. 98763L001 that the screening unit had a water-spray or other dust suppression controls, but on September 28, 2021, TCEQ staff documented that the screening unit does not have dust suppression controls to satisfy the condition that the emissions shall not exceed 6.0 pounds per hour of cement dust, resulting in the screening unit being operated prior to obtaining the proper authorization.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10.0%

**Matrix Notes** 100% of the rule requirements were not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 1 14 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$2,500

One monthly event is recommended from the September 28, 2021 investigation date through the October 12, 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** \$2,500

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

**Estimated EB Amount** \$473 **Violation Final Penalty Total** \$2,625

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

## Economic Benefit Worksheet

**Respondent** Edward L. Bradley  
**Case ID No.** 61461  
**Reg. Ent. Reference No.** RN106145303  
**Media** Air  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	\$5,000	10-Feb-2021	1-Jan-2023	1.89	\$473	n/a	\$473
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to obtain authorization for the screening unit. The Date Required is the initial date of non-compliance 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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$473

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 CN603854761, RN106145303, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN603854761, BRADLEY, EDWARD      **Classification:** SATISFACTORY      **Rating:** 3.00

**Regulated Entity:** RN106145303, PORTABLE SCREENING UNIT 1      **Classification:** SATISFACTORY      **Rating:** 3.00

**Complexity Points:** 2      **Repeat Violator:** NO

**CH Group:** 04 - Mining

**Location:** 349 CHOATE DRIVE IN ALVIN, BRAZORIA COUNTY, TEXAS

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR NEW SOURCE PERMITS REGISTRATION** 98763L001      **AIR QUALITY NON PERMITTED ID NUMBER** 154552

**Compliance History Period:** September 01, 2016 to August 31, 2021      **Rating Year:** 2021      **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** October 11, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 11, 2016 to October 11, 2021

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

**Name:** Kate Dacy

**Phone:** (512) 239-4593

**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

**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.):**

**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: 03/30/2021 (1703754)
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
5C THSC Chapter 382 382.0518(a)  
5C THSC Chapter 382 382.085(b)
- Description: Failure to obtain authorization to construct a rock crusher. (Category B8)

**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  
EDWARD L. BRADLEY;  
RN106145303**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2021-1372-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 respondent. The respondent made the subject of this Order is Edward L. Bradley (“Respondent”).

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a rock crusher and screening facility located at 349 Choate Drive in Alvin, Brazoria County, Texas (the “Site”).
2. During an investigation conducted from September 20, 2021 through September 30, 2021, an investigator documented that Respondent:
  - a. Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, on September 28, 2021, TCEQ staff observed a rock crusher that was developed by MB America, Inc., in operation prior to obtaining the proper authorization; and
  - b. Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, Respondent represented in the registration for Permit by Rule (“PBR”) Registration No. 98763L001 that the screening unit had a water-spray or other dust suppression controls, but on September 28, 2021, TCEQ staff documented that the screening unit does not have dust suppression controls to satisfy the condition that the emissions shall not exceed 6.0 pounds per hour of cement dust, resulting in the screening unit being operated prior to obtaining the proper authorization.
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 Edward L. Bradley” (the “EDPRP”) in the TCEQ Chief Clerk’s office on December 29, 2022.
4. The EDPRP was mailed to Respondent’s last known addresses on December 29, 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 April 24, 2023.

6. By letter dated April 24, 2023, sent to Respondent's last known addresses via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent 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 Respondent received notice of the EDPRP.
7. 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. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a).
4. As evidenced by Findings of Fact Nos. 3 through 6, 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(c)(2).
5. As evidenced by Finding of Fact No. 7, 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.
6. 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.
7. An administrative penalty in the amount of five thousand two hundred fifty dollars (\$5,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 five thousand two hundred fifty dollars (\$5,250.00) 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: Edward L. Bradley; Docket No. 2021-1372-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. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order:
  - i. Either permanently cease operating the rock crusher that was developed by MB America, Inc., or submit an administratively complete standard permit registration or permit application to authorize the operation and associated emissions for the rock crusher that was developed by MB America, Inc., in accordance with 30 TEX. ADMIN. CODE ch. 116.111 to:

Air Permits Division, MC 163  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - ii. Install water-sprays or dust suppression controls on the screening unit as represented in the registration for PBR Registration No. 98763L001 or submit an administratively complete permit application to authorize the operation and associated emissions for the screening unit, in accordance with 30 TEX. ADMIN. CODE § 116.111, to the address in Ordering Provision 3.a.i.
- b. If a registration or permit application is submitted, respond completely and adequately, as determined by TCEQ, to all requests for information concerning the registration or permit application within any deadlines specified in writing.
- c. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.e., to demonstrate compliance with Ordering Provision No. 3.a.
- d. If a registration or permit application is submitted, within 180 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.e., that either the authorizations for the rock crusher that was developed by MB America, Inc., and/or for the screening unit have been obtained or that operations have ceased until such time that the appropriate authorizations are obtained, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.
- e. The certifications required by these Ordering Provisions 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 certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

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. 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 Enforcement Division 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.

**SIGNATURE PAGE**

**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 JENNIFER PELTIER

"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 Edward L. Bradley' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 29, 2022.

The EDPRP was mailed to Respondent's last known addresses on December 29, 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 April 24, 2023.

The EDPRP was mailed to Respondent's last known addresses on April 24, 2023, 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 Respondent received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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."

"My name is Jennifer Peltier, 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 9th day of January, 2024

A handwritten signature in cursive script, appearing to read "J Peltier".

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Declarant