

Wesley Fuller

RN110407335

Docket No. 2022-0243-MSW-E

**Order Type:**  
Default Order

**Media:**  
MSW

**Small Business:**  
N/A

**Location Where Violation Occurred:**  
5502 United States Highway 96, Jasper, Jasper County

**Type of Operation:**  
unauthorized municipal solid waste disposal site

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

**Texas Register Publication Date:** December 26, 2025

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$3,937

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

**Total Due to General Revenue:** \$3,937

**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 Date:** N/A

**Dates of Investigation:** March 9, 2021 and September 2, 2021

**Date of NOV:** October 4, 2021

**Date of NOE:** February 17, 2022

**Wesley Fuller**  
RN110407335  
Docket No. 2022-0243-MSW-E

**Violation Information**

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

**Corrective Actions/Technical Requirements**

**Corrective Actions Completed:**

None

**Technical Requirements:**

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

**Litigation Information**

**Date Petitions Filed:** November 3, 2023; December 6, 2023  
**Date of Service:** unclaimed; unclaimed  
**Date Answer Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Benjamin Pence, 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:** Eresha DeSilva, Enforcement Division, (512)-239-6924  
**TCEQ Regional Contact:** David King, Beaumont Regional Office, (409)-898-3838  
**Respondent Contact:** Wesley Fuller, 5578 United States Highway 96 South, Jasper, Texas 75951  
**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>	22-Feb-2022	<b>Screening</b>	1-Mar-2022	<b>EPA Due</b>	
	<b>PCW</b>	12-Sep-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Wesley Fuller
<b>Reg. Ent. Ref. No.</b>	RN110407335
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	62017	<b>No. of Violations</b>	1
<b>Docket No.</b>	2022-0243-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Alain Elegbe
		<b>EC's Team</b>	Enforcement Team 6
<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>	\$3,750
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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>	\$187
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<b>Notes</b>	Enhancement for one NOV with same/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	\$7	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$115	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,937
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$3,937
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,937
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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>	\$3,937
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**Screening Date** 1-Mar-2022

**Docket No.** 2022-0243-MSW-E

**PCW**

**Respondent** Wesley Fuller

Policy Revision 5 (January 28, 2021)

**Case ID No.** 62017

PCW Revision February 11, 2021

**Reg. Ent. Reference No.** RN110407335

**Media** Municipal Solid Waste

**Enf. Coordinator** Alain Elegbe

### 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 1-Mar-2022  
Respondent Wesley Fuller

Docket No. 2022-0243-MSW-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Case ID No. 62017  
Reg. Ent. Reference No. RN110407335

Media Municipal Solid Waste  
Enf. Coordinator Alain Elegbe

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 1.5 cubic yards of MSW consisting of broken pieces of asphalt and concrete, a boat seat, a small heater, a 5-gallon bucket, water heaters, an air compressor, a metal gas can, an electrical panel, and wiring were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> 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

26 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 February 3, 2022 record review date to the March 1, 2022 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 \$7

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

## Economic Benefit Worksheet

**Respondent** Wesley Fuller  
**Case ID No.** 62017  
**Reg. Ent. Reference No.** RN110407335  
**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	\$115	2-Sep-2021	19-Dec-2022	1.30	\$7	n/a	\$7
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
<b>Notes for DELAYED costs</b>	Estimated delayed cost to remove approximately 1.5 cubic yards of MSW from the Site and dispose of it 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
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
<b>Notes for AVOIDED costs</b>							

<b>Approx. Cost of Compliance</b>	\$115	<b>TOTAL</b>	\$7
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# Compliance History Report

Compliance History Report for CN605533538, RN110407335, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN605533538, Wesley Fuller      **Classification:** NOT APPLICABLE      **Rating:** N/A  
**Regulated Entity:** RN110407335, FULLER PROPERTY      **Classification:** NOT APPLICABLE      **Rating:** N/A  
**Complexity Points:** N/A      **Repeat Violator:** N/A  
**CH Group:** 14 - Other  
**Location:** 5502 United States Highway 96, Jasper, Jasper County, Texas 75951  
**TCEQ Region:** REGION 10 - BEAUMONT  
**ID Number(s):**

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

**Date Compliance History Report Prepared:** March 01, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 01, 2017 to March 01, 2022

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

**Name:** Alain Elegbe

**Phone:** (512) 239-6924

**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: 10/04/2021 (1763125)  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)(2)  
30 TAC Chapter 330, SubChapter A 330.15(c)  
Description: Failure to comply with the General Prohibitions for the collection, storage, transportation, processing, or disposal of Municipal Solid Waste. B17 // (2) (D)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  
WESLEY FULLER;  
RN110407335**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2022-0243-MSW-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Wesley Fuller (“Respondent”).

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

### **FINDINGS OF FACT**

1. Respondent owns and operates an unauthorized municipal solid waste (“MSW”) disposal site located at 5502 United States Highway 96 in Jasper, Jasper 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.
2. During an investigation conducted on and around March 9, 2021, and September 2, 2021, an investigator documented that Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately 1.5 cubic yards of MSW consisting of broken pieces of asphalt and concrete, a boat seat, a small heater, a 5-gallon bucket, water heaters, an air compressor, a metal gas can, an electrical panel, and wiring were disposed of at the Site.
3. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Wesley Fuller” (the “EDPRP”) in the TCEQ Chief Clerk’s office on November 3, 2023.
4. The EDPRP was mailed to Respondent’s last known address on November 3, 2023, 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 December 6, 2023.
6. By letter dated December 6, 2023, sent to Respondent’s last known address 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. 361 and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2, Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
3. 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).
4. 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.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$3,937 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of \$3,937 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: Wesley Fuller; Docket No. 2022-0243-MSW-E" to:

Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease disposing of any additional MSW at the Site.
  - b. Within 30 days after the effective date of this Order, remove all MSW from the Site and dispose of it at an authorized facility.
  - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Fwy  
Beaumont, Texas 77703-1830

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the 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 BENJAMIN LAWRENCE PENCE

"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 Wesley Fuller' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 3, 2023.

The EDPRP was mailed to Respondent's last known address on November 3, 2023, 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 December 6, 2023.

The EDPRP was mailed to Respondent's last known address on December 6, 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 Benjamin Lawrence Pence, 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 20th day of August, 2025

*Benjamin Pence*

Declarant