

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 64634  
Marvin Ackley and Kimberly Ackley  
RN111502654  
Docket No. 2023-1192-MSW-E

Page 1 of 2

**Order Type:**  
Default Order

**Media:**  
MSW

**Small Business:**  
Yes

**Location Where Violations Occurred:**  
875 Lake L Drive in Trinity, Trinity County (the "Site")

**Type of Operation:**  
an unauthorized municipal solid waste ("MSW") disposal site

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

**Texas Register Publication Date:** June 20, 2025

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$3,750

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

**Total Due to General Revenue:** \$3,750

**Compliance History Classifications:**  
Person/CN -Unclassified  
Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

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

**Investigation Information**

**Complaint Date:** April 1, 2022

**Complaint Information:** Alleged dumping of household trash and refuse on the ground near a waterway that leads to the Trinity River and Lake Livingston.

**Dates of Investigation:** April 20, 2022; August 17, 2022

**Date of NOV's:** June 2, 2022

**Date of NOEs:** January 24, 2023

**Marvin Ackley and Kimberly Ackley**

RN111502654

Docket No. 2023-1192-MSW-E

**Violation Information**

Respondents 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 Action Completed:**

None

**Technical Requirements:**

1. Respondents shall undertake the following:
  - a. Immediately cease disposal of any additional MSW at the Site;
  - b. Within 30 days remove all unauthorized MSW from the Site and dispose of it at an authorized facility; and
  - c. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. and 1.b.

**Litigation Information****Dates Petitions Filed:** November 5, 2024; December 11, 2024**Dates of Service:** November 8, 2024; unclaimed**Date Answer Filed:** N/A**Contact Information**

**TCEQ Attorneys:** Laney Foeller, 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:** Lauren Little, Enforcement Division, (817) 588-5888

**TCEQ Regional Contact:** David King, Beaumont Regional Office, (409) 898-3838

**Respondents Contact:** Kimberly Ackley, Responsible Party, 130 Darrel Hall Drive, Trinity, Texas 75862;  
Kimberly Ackley, Responsible Party, 875 Lake L Drive, Trinity, Texas 75862;  
Marvin Ackley, Responsible Party, 875 Lake L Drive, Trinity, Texas 75862;  
Marvin Ackley, Responsible Party, P.O. Box 1650, Trinity, Texas 75862;  
Marvin Ackley, Responsible Party, 130 Darrel Hall Drive, Trinity, Texas 75862

**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>	21-Jul-2023	<b>Screening</b>	4-Aug-2023	<b>EPA Due</b>	
	<b>PCW</b>	2-Jul-2024				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Marvin Ackley and Kimberly Ackley		
<b>Reg. Ent. Ref. No.</b>	RN111502654		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	64634	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-1192-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>	Lauren Little
		<b>EC's Team</b>	Enforcement Team 3
<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
---	-------------------	---------

## 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>	0.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$0
---------------------------	------	-------------------	--------------------------------	-----

Notes: No adjustment for Compliance History.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
--------------------	----	------	--------------------	-------------------	-----

Notes: The Respondents do not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
-------------------------	------	---------------------	-------------------	-----

Total EB Amounts: \$11  
Estimated Cost of Compliance: \$73  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,750
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$3,750
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,750
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	0.0%	<b>Reduction</b>	<b>Adjustment</b>	\$0
-----------------	------	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$3,750
------------------------	---------

<b>Screening Date</b>	4-Aug-2023	<b>Docket No.</b>	2023-1192-MSW-E	<b>PCW</b>
<b>Respondent</b>	Marvin Ackley and Kimberly Ackley			Policy Revision 5 (January 28, 2021)
<b>Case ID No.</b>	64634			PCW Revision February 11, 2021
<b>Reg. Ent. Reference No.</b>	RN111502654			
<b>Media</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Lauren Little			

## 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> )	0	0%
	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)** 0%

### >> 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**

No adjustment for Compliance History.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

<b>Screening Date</b>	4-Aug-2023	<b>Docket No.</b>	2023-1192-MSW-E	<b>PCW</b>
<b>Respondent</b>	Marvin Ackley and Kimberly Ackley			Policy Revision 5 (January 28, 2021)
<b>Case ID No.</b>	64634			PCW Revision February 11, 2021
<b>Reg. Ent. Reference No.</b>	RN111502654			
<b>Media</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Lauren Little			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 330.15(a) and (c)			
<b>Violation Description</b>	Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately three cubic yards of MSW consisting of remnants of an aboveground pool, a metal chair, five-gallon buckets, a vanity sink, and putrescible waste was disposed of at the Site.			
		<b>Base Penalty</b>	\$25,000	

  

>> Environmental, Property and Human Health Matrix

OR

		<b>Release</b>	<b>Harm</b>	
			Major Moderate Minor	
		Actual		x
		Potential		

Percent 15.0%

  

>> Programmatic Matrix

			<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>

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

  

Violation Events

Number of Violation Events 1

228 Number of violation days

	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	x
	annual	
	single event	

Violation Base Penalty \$3,750

One semiannual event is recommended from the December 19, 2022 investigation date to the August 4, 2023 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 Respondents do 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 \$11

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

# Economic Benefit Worksheet

**Respondent** Marvin Ackley and Kimberly Ackley  
**Case ID No.** 64634  
**Reg. Ent. Reference No.** RN111502654  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

## 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	\$73	20-Apr-2022	16-May-2025	3.07	\$11	n/a	\$11
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to remove all 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
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 \$73

**TOTAL** \$11



# Compliance History Report

Compliance History Report for CN606019602, RN111502654, Rating Year 2024 which includes Compliance History (CH) components from September 1, 2019, through August 31, 2024.

<b>Customer, Respondent, or Owner/Operator:</b>	CN606019602, Marvin Ackley	<b>Classification:</b>	UNCLASSIFIED	<b>Rating:</b>	-----
<b>Regulated Entity:</b>	RN111502654, 875 Lake L Drive	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	875 Lake L Drive, Trinity, Trinity County, Texas 75862-7942				
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT				
<b>ID Number(s):</b>					

<b>Compliance History Period:</b>	September 01, 2019 to August 31, 2024	<b>Rating Year:</b>	2024	<b>Rating Date:</b>	09/01/2024
<b>Date Compliance History Report Prepared:</b>	October 08, 2024				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	October 08, 2019 to October 08, 2024				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Lauren Little	<b>Phone:</b>	(817) 588-5888		

## 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.

N/A

### **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





# Compliance History Report

Compliance History Report for CN606019610, RN111502654, Rating Year 2024 which includes Compliance History (CH) components from September 1, 2019, through August 31, 2024.

**Customer, Respondent, or Owner/Operator:** CN606019610, Kimberly Ackley

**Classification:** UNCLASSIFIED

**Rating:** -----

**Regulated Entity:** RN111502654, 875 Lake L Drive

**Classification:** NOT APPLICABLE

**Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 875 Lake L Drive, Trinity, Trinity County, Texas 75862-7942

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**

**Compliance History Period:** September 01, 2019 to August 31, 2024

**Rating Year:** 2024

**Rating Date:** 09/01/2024

**Date Compliance History Report Prepared:** October 08, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 08, 2019 to October 08, 2024

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

**Name:** Lauren Little

**Phone:** (817) 588-5888

## 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.

N/A

### **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  
MARVIN ACKLEY AND KIMBERLY  
ACKLEY;  
RN111502654

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2023-1192-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 respondents. The respondents made the subject of this Order are Marvin Ackley and Kimberly Ackley ("Respondents").

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

### FINDINGS OF FACT

1. Respondents own and operate real property located at 875 Lake L Drive in Trinity, Trinity County, Texas (the "Site"). The Site contains and/or involves the management of municipal solid waste ("MSW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During investigations commenced on April 20, 2022 and August 17, 2022, an investigator documented that Respondents caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately three cubic yards of MSW consisting of remnants of an aboveground pool, a metal chair, five-gallon buckets, a vanity sink, and putrescible waste was 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 Marvin Ackley and Kimberly Ackley" (the "EDPRP") in the TCEQ Chief Clerk's office on November 5, 2024.
4. The EDPRP was mailed to each Respondent's last known addresses on November 5, 2024, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," Kimberly Ackley received notice of the EDPRP on November 8, 2024. The United States Postal Service returned the EDPRP sent by certified mail to Marvin Ackley as "unclaimed."
5. The Executive Director re-filed the EDPRP for service upon Marvin Ackley in the TCEQ Chief Clerk's office on December 11, 2024.
6. By letter dated December 11, 2024, sent to Marvin Ackley's last known addresses via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Marvin Ackley 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 Marvin Ackley received notice of the EDPRP.
7. More than 20 days have elapsed since each Respondent received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondents 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 each Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1) and (c)(2).
4. As evidenced by Finding of Fact No. 7, Respondents failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$3,750 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty in the amount of \$3,750 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondents' compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Marvin Ackley and Kimberly Ackley; Docket No. 2023-1192-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. Respondents shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease disposal of any additional MSW at the Site;
  - b. Within 30 days after the effective date of this Order, remove all unauthorized MSW from the Site and dispose of it at an authorized facility; and
  - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions No. 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 Respondents, 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 Freeway  
Beaumont, Texas 77703-1830

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents.
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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

For the Commission

---

Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF LANEY M. FOELLER

"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 Marvin Ackley and Kimberly Ackley' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 5, 2024.

The EDPRP was mailed to each Respondent's last known addresses on November 5, 2024, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Kimberly Ackley received notice of the EDPRP on November 8, 2024. The United States Postal Service returned the EDPRP sent by certified mail to Marvin Ackley as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed for service upon Marvin Ackley in the TCEQ Chief Clerk's office on December 11, 2024.

The EDPRP was mailed to Marvin Ackley's last known addresses on December 11, 2024, 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 Marvin Ackley received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

"My name is Laney M. Foeller, 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 2<sup>nd</sup> day of June 2025

A handwritten signature in cursive script that reads "Laney M. Foeller".

Declarant