

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-0790-PST-E TCEQ ID: RN105072912 CASE NO.: 33540**  
**RESPONDENT NAME: RAY LAWTON AND SHURAN LAWTON**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> FM 729, Jefferson, Marion County</p> <p><b>TYPE OF OPERATION:</b> Facility with underground storage tanks</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 23, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789  <b>TCEQ Regional Contact:</b> Mr. Michael Brashear, Tyler Regional Office, MC R-5; (903) 535-5176  <b>Respondent:</b> Ray and Shuran Lawton, 1423 U.S. Highway 271 North, Gilmer, Texas 75644  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b>                      None</p> <p><b>Dates of Investigation Relating to this Case:</b>                      April 12, 2007</p> <p><b>Date of NOE Relating to this Case:</b>                      May 4, 2007</p> <p><b>Background Facts:</b>                      The EDRP was filed and mailed to the Respondents on December 10, 2007. According to the return receipt "green cards," Respondents received notice of the EDRP on December 14, 2007, as evidenced by the signature on the cards. The Respondents failed to file an answer to the EDRP, request a hearing, or schedule a settlement conference.</p> <p><b>PST:</b></p> <p>1. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p> <p>2. Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987 [30 TEX. ADMIN. CODE § 334.7(a)(1)].</p>	<p><b>Total Assessed:</b> \$8,925</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$8.925</p> <p>This is a Default Order. The Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b>                      N/A</p> <p><b>Person Compliance History Classification</b>                      N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions</b></p> <p>The Respondents shall:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, permanently remove the UST system from service.</li> <li>2. Within 45 days, submit a properly completed UST registration form to the TCEQ.</li> </ol>



Sites Outside of Texas

N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	4-May-2007			
	PCW	26-Aug-2007	Screening	9-May-2007	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Ray Lawton and Shuran Lawton		
Reg. Ent. Ref. No.	RN105072912		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	33540	No. of Violations	2
Docket No.	2007-0790-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Elvia Maske
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$8,500

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 5% Enhancement Subtotals 2, 3, & 7 \$425

Notes: Enhancement for one NOV with same or similar violations.

**Culpability** No 0% Enhancement Subtotal 4 \$0

Notes: The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The respondent does not meet the good faith criteria.

**Total EB Amounts** \$4,659 0% Enhancement\* Subtotal 6 \$0  
**Approx. Cost of Compliance** \$10,100 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$8,925

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount** \$8,925

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$8,925

**DEFERRAL** 0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement

**PAYABLE PENALTY** \$8,925

Screening Date 9-May-2007

Docket No. 2007-0790-PST-E

PCW

Respondent Ray Lawton and Shuran Lawton

Policy Revision 2 (September 2002)

Case ID No. 33540

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105072912

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date 9-May-2007

Docket No. 2007-0790-PST-E

PCW

Respondent Ray Lawton and Shuran Lawton

Policy Revision 2 (September 2002)

Case ID No. 33540

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105072912

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty

\$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

\$7,500

\$2,500

Violation Events

Number of Violation Events 3

27 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty

\$7,500

Three monthly events are recommended (one month per UST) based on documentation of the violation during the April 12, 2007 record review date to the May 9, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,556

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

## Economic Benefit Worksheet

**Respondent:** Ray Lawton and Shuran Lawton  
**Case ID No.:** 33540  
**Reg. Ent. Reference No.:** RN105072912  
**Media:** Petroleum Storage Tank  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$10,000	22-Dec-1998	30-Jan-2008	9.1	\$4,556	n/a	\$4,556

Notes for DELAYED costs

Estimated cost to permanently remove the UST system from service. The Date Required is the date the respondent was required to upgrade the UST system and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$4,556

Screening Date 9-May-2007

Docket No. 2007-0790-PST-E

PCW

Respondent Ray Lawton and Shuran Lawton

Policy Revision 2 (September 2002)

Case ID No. 33540

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105072912

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.7(a)(1)

Violation Description Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	0%	
	Release	Major	Moderate			Minor
	Actual					
	Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent	10%
		x				

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 27

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the April 12, 2007 record review.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

Respondent Ray Lawton and Shuran Lawton

Case ID No. 33540

Reg. Ent. Reference No. RN105072912

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-1987	15-Feb-2008	20.5	\$102	n/a	\$102

Notes for DELAYED costs

Estimated cost to prepare and submit a UST registration. The Date Required is the date the respondent was required to register the UST system and the Final Date is the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$102

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING RAY LAWTON  
AND SHURAN LAWTON,  
RN105072912

§  
§  
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§  
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§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2007-0790-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Ray Lawton and Shuran Lawton ("the Lawtons").

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

**FINDINGS OF FACT**

1. The Lawtons own a facility with three underground storage tanks located at FM 729, Jefferson, Marion County, Texas (the "Facility").
2. The Lawtons' three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Lawtons' USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During a record review conducted on April 12, 2007, a TCEQ Tyler Regional Office investigator documented that the Lawtons:
  - a. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
  - b. Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987.
4. The Lawtons received notice of violations 3.a. and 3.b. on or about May 9, 2007.

5. 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 Ray Lawton and Shuran Lawton (the "EDPRP") in the TCEQ Chief Clerk's office on December 10, 2007.
6. By letter dated December 10, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ray Lawton with notice of the EDPRP. According to the return receipt "green card", Ray Lawton received notice of the EDPRP on December 14, 2007, as evidenced by the signature on the card.
7. By letter dated December 10, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Shuran Lawton with notice of the EDPRP. According to the return receipt "green card", Shuran Lawton received notice of the EDPRP on December 14, 2007, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Ray Lawton received notice of the EDPRP, provided by the Executive Director. Ray Lawton failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. More than 20 days have elapsed since Shuran Lawton received notice of the EDPRP, provided by the Executive Director. Shuran Lawton failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, the Lawtons are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., the Lawtons failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact No. 3.b., the Lawtons failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987, in violation of 30 TEX. ADMIN. CODE § 334.7(a)(1).

4. As evidenced by Finding of Fact Nos. 5, 6, and 7 the Executive Director has timely served the Lawtons with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact Nos. 8 and 9 the Lawtons failed to file a timely answer to the EDPRP, 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 the Lawtons 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 the Lawtons for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission'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 eight thousand nine hundred twenty-five dollars (\$8,925.00) 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. The Lawtons are assessed an administrative penalty, jointly and severally, in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) for violations of TEX. WATER CODE chs. 7 and 26, and rules of the TCEQ. The payment of this administrative penalty and the Lawtons' compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Ray Lawton and Shuran Lawton; Docket No. 2007-0790-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Lawtons shall, jointly and severally, undertake the following technical requirements:
- a. Within 30 days after the effective date of this Order, the Lawtons shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
  - b. Within 45 days after the effective date of this Order, the Lawtons shall submit a properly completed UST registration form to the TCEQ, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting & Remediation Support Division, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 12087  
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Order, the Lawtons shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and 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 certification shall be submitted to:

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

with a copy to:

Michael Brashear, Waste Section Manager  
Texas Commission on Environmental Quality  
Tyler Regional Office  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon the Lawtons. The Lawtons are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Lawtons 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, the Lawtons' failure to comply is not a violation of this Order. The Lawtons shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Lawtons shall notify the Executive Director within seven days after the Lawtons become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Lawtons shall be made in writing to the Executive Director. Extensions are not effective until the Lawtons receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Lawtons if the Executive Director determines that the Lawtons have not complied with one or more of the terms or conditions in this Order.

8. 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.
9. The Chief Clerk shall provide a copy of this 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

**AFFIDAVIT OF TRACY CHANDLER**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

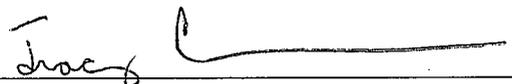
“My name is Tracy Chandler. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I 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 Ray Lawton and Shuran Lawton” (the “EDPRP”) with the Office of the Chief Clerk on December 10, 2007.

I sent the EDPRP to Ray Lawton at his last known address on December 10, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Ray Lawton received notice of the EDPRP on December 14, 2007, as evidenced by the signature on the card.

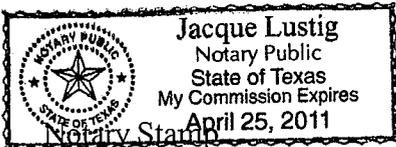
I sent the EDPRP to Shuran Lawton at her last known address on December 10, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Shuran Lawton received notice of the EDPRP on December 14, 2007, as evidenced by the signature on the card.

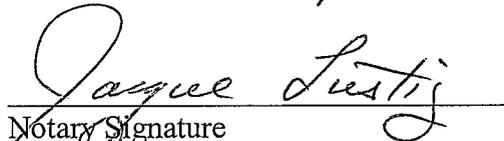
More than 20 days have elapsed since Ray Lawton and Shuran Lawton received notice of the EDPRP. Ray Lawton and Shuran Lawton failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.

  
\_\_\_\_\_  
Tracy Chandler  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tracy Chandler, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 30<sup>th</sup> day of April, A.D., 2008.



  
\_\_\_\_\_  
Notary Signature