

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-1777-PST-E TCEQ ID: RN101564649 CASE NO.: 34892**

**RESPONDENT NAME: ANDREA BENNETT, TRUSTEE OF THE RANDY BENNETT GST TRUST**

<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 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

**SITE WHERE VIOLATION(S) OCCURRED:** IH 20 and SH 108 North, Thurber, Erath County

**TYPE OF OPERATION:** Former smoke stack station with underground USTs

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired June 22, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Thomas Greimel, Waste Enforcement Section, MC 128, (512) 239-5690

**TCEQ Regional Contact:** Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901

**Respondent:** Ms. Andrea Bennett, Trustee of the Randy Bennett GST Trust, 239 Private Road 741, Mingus, Texas 76436

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**RESPONDENT NAME: ANDREA BENNETT, TRUSTEE  
OF THE RANDY BENNETT GST TRUST  
DOCKET NO.: 2007-1777-PST-E**

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> April 3, 2007 and September 25, 2007</p> <p><b>Date of NOE Relating to this Case:</b> October 7, 2007</p> <p><b>Background Facts:</b> The EDRP was filed January 23, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The EDFARP was filed February 6, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDFARP on February 9, 2009. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The Respondent permanently removed the three USTs from service on March 3, 2008, and does not have a delivery certificate.</p> <p><b>PST:</b> 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><b>Total Assessed:</b> \$7,875</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> \$7,875</p> <p>This is a Default Order. The Respondent has 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>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</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>Corrective Actions Taken:</b> The Executive Director recognizes that the Respondent permanently removed the three USTs from service on March 3, 2008.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

<b>DATES</b>	Assigned	15-Oct-2007	Screening	25-Oct-2007	EPA Due	
	PCW	3-Feb-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	The Randy Bennett GST Trust
Reg. Ent. Ref. No.	RN101564649
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	34892	No. of Violations	1
Docket No.	2007-1777-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,500</b>
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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% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$375</b>
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Notes: Enhancement for one previous NOV with the same violation.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	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.

	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$4,764	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$7,875</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$7,875**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$7,875</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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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.

<b>PAYABLE PENALTY</b>	<b>\$7,875</b>
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**Screening Date** 25-Oct-2007

**Docket No.** 2007-1777-PST-E

**PCW**

**Respondent** The Randy Bennett GST Trust

Policy Revision 2 (September 2002)

**Case ID No.** 34892

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN101564649

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Thomas Greimel

**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 ( <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 judgements 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%
<i>Please Enter Yes or No</i>			
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)**

Average Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one previous NOV with the same violation.

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

**Screening Date** 25-Oct-2007 **Docket No.** 2007-1777-PST-E **PCW**

**Respondent** The Randy Bennett GST Trust *Policy Revision 2 (September 2002)*

**Case ID No.** 34892 *PCW Revision November 6, 2007*

**Reg. Ent. Reference No.** RN101564649

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Thomas Greimel

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$4,764"/>	Violation Final Penalty Total	<input type="text" value="\$7,875"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$7,875"/>	

## Economic Benefit Worksheet

**Respondent** The Randy Bennett GST Trust  
**Case ID No.** 34892  
**Reg. Ent. Reference No.** RN101564649  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**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-Jun-2008	9.5	\$4,764	n/a	\$4,764

**Notes for DELAYED costs**  
 Estimated cost to permanently remove the UST system from service. Date Required is the date when the respondent was required to upgrade the UST system. Final Date is the date the respondent is expected to come into 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** \$4,764

# Compliance History

Customer/Respondent/Owner-Operator: CN603178781 Andrea Bennett, Trustee of the Randy Bennett GST Trust Classification: AVERAGE Rating: 1.50

Regulated Entity: RN101564649 FORMER SMOKE STACK STATION Classification: AVERAGE Site Rating: 1.50

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 66014  
REGISTRATION

Location: Intersection of IH 20 & HWY 108 N located approx. 2 mi. south of Mingus, Texas Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: October 25, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 25, 2002 to October 25, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Greimel Phone: (512) 239-5690

## Site Compliance History Components

- |  |            |
|--|------------|
| 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 of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | N/A        |
| 5. When did the change(s) in ownership occur?  | N/A        |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 04/24/2007 (555972)  
N/A  
2 10/12/2007 (595437)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 04/25/2007 (555972)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)  
Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
- 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  
ANDREA BENNETT, TRUSTEE  
OF THE RANDY BENNETT GST  
TRUST;  
RN101564649**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2007-1777-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 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 Andrea Bennett, Trustee of the Randy Bennett GST Trust ("Ms. Bennett").

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

**FINDINGS OF FACT**

1. Ms. Bennett ("Ms. Bennet") is the trustee of the Randy Bennett GST Trust ("the Trust") which owns a former smoke stack station located at IH 20 and SH 108 North, Thurber, Erath County, Texas (the "Facility") and contains three underground storage tanks ("USTs").
2. The Trust's three underground storage tanks are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Trust's USTs contain a regulated substance as defined in the rules of the Commission.
3. During an investigation conducted September 25, 2007, a TCEQ Dallas/Fort Worth Regional Office investigator documented that the trust 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.
4. Ms. Bennett received notice of the violation on or about October 12, 2007.

5. The Executive Director recognizes that Ms. Bennett permanently removed the three USTs from service on March 3, 2008.
6. 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 Andrea Bennett, Trustee of the Randy Bennett GST Trust" (the "EDPRP") in the TCEQ Chief Clerk's office on January 23, 2008.
7. By letter dated January 23, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Bennett with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Ms. Bennett received notice of the EDPRP.
8. More than 20 days have elapsed since Ms. Bennett received notice of the EDPRP, provided by the Executive Director. Ms. Bennett failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Andrea Bennett, Trustee of the Randy Bennett GST Trust" (the "EDFARP") in the TCEQ Chief Clerk's office on February 6, 2009.
10. By letter dated February 6, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Bennett with notice of the EDFARP. According to the return receipt "green card," Ms. Bennett received notice of the EDFARP on February 9, 2009, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Ms. Bennett received notice of the EDFARP, provided by the Executive Director. Ms. Bennett failed to file an answer to the EDFARP, 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, Ms. Bennett is 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, Ms. Bennett 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 Nos. 6 and 7, the Executive Director timely served Ms. Bennett with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c).
4. As evidenced by Finding of Fact No. 8, Ms. Bennett 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 Ms. Bennett and assess the penalty recommended by the Executive Director.
5. As evidenced by Finding of Fact Nos. 9 and 10, the Executive Director timely served Ms. Bennett with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 11, Ms. Bennett failed to file a timely answer to the EDFARP, 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 Ms. Bennett and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Ms. Bennett for violations of the Texas Water 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.
8. An administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Ms. Bennett is assessed an administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Ms. Bennett's 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: Andrea Bennett, Trustee of the Randy Bennett GST Trust; Docket No. 2007-1777-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Ms. Bennett. Ms. Bennett is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. If Ms. Bennett 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, Ms. Bennett's failure to comply is not a violation of this Order. Ms. Bennett shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Bennett shall notify the Executive Director within seven days after Ms. Bennett becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Bennett shall be made in writing to the Executive Director. Extensions are not effective until Ms. Bennett receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. 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 Ms. Bennett if the Executive Director determines that Ms. Bennett has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. 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.

Andrea Bennett, Trustee of the Randy Bennett GST Trust  
Docket No. 2007-1777-PST-E  
Page 6

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF BARHAM A. RICHARD**

STATE OF TEXAS           §  
                                  §  
COUNTY OF TRAVIS       §

“My name is Barham A. Richard. 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, 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 Andrea Bennett, Trustee of the Randy Bennett GST Trust” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 23, 2008.

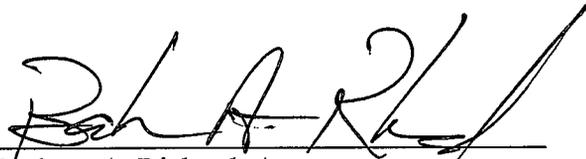
The EDPRP was mailed to Ms. Bennett at her last known address on January 23, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Ms. Bennett received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Andrea Bennett, Trustee of the Randy Bennett GST Trust” (the “EDFARP”) was filed with the Office of the Chief Clerk on February 6, 2009.

The EDFARP was mailed to Ms. Bennett at her last known address on February 6, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Ms. Bennett received notice of the EDFARP on February 9, 2009, as evidenced by the signature on the card.

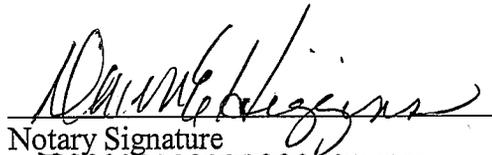
More than 20 days have elapsed since Ms. Bennett received notice of the EDFARP. Ms. Bennett failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”



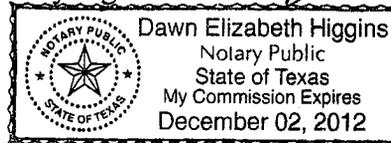
Barham A. Richard, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he 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., 2009.



Notary Signature



NOTARY WITHOUT BOND