EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1102-PST-E TCEQ ID RN105278824 CASE NO. 37956
RESPONDENT NAME: ELLA L. LIND

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 11019 United States Highway 290 East, Manor, Travis County

TYPE OF OPERATION: real property with inactive underground storage tanks ("USTs")

SMALL BUSINESS: X 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 March 15, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789
TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929
Respondent: Ms. Ella L. Lind, 10011 Taylor Lane, Manor, Texas 78653
Respondent's Attorney: Mr. Patrick Larkin, Strasburger & Price, L.L.P., 901 Main Street, Suite 4400, Dallas, Texas 75202-3794

RESPONDENT NAME: ELLA L. LIND
DOCKET NO.: 2009-1102-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case**: N/A **Date of Investigation Relating to this Case**: June 24, 2009 **Date of NOE Relating to this Case**: June 26, 2009 **Background Facts**: The case was referred to the Litigation Division on October 7, 2009. The agreed order was signed on December 8, 2009. **Current Compliance Status:** The Respondent has not yet submitted documentation to certify compliance with the technical requirements. The Respondent does not have a delivery certificate. **PST:** 1. 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)]. 2. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system 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)].	**Total Assessed**: $3,850 **Total Deferred**: $0 ___ Expedited Order ___ Financial Inability to Pay ___ SEP Conditional Offset **Total Paid/Due to General Revenue**: $175/$3,675 The Respondent paid $175 of the administrative penalty. The remaining amount of $3,675 shall be payable in 35 monthly payments of $105 each. **Site Compliance History Classification:** __ High _X_ Average ___ Poor **Person Compliance History Classification:** __ High _X_ Average ___ Poor **Major Source**: ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Respondent shall undertake the following technical requirements: 1. Within 30 days, permanently remove all of the Facility's USTs and UST system from service. 2. Within 45 days, submit an amended registration to reflect the owner's current contact information, date of ownership change, and status of the Facility's USTs and UST system. 3. Within 60 days, submit written certification demonstrating compliance.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	29-Jun-2009				
PCW	8-Oct-2009	Screening	1-Jul-2009	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Ella L. Lind		
Reg. Ent. Ref. No.	RN105278824		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37956	No. of Violations	2
Docket No.	2009-1102-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Elvia Maske
		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* $3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 10.0% Enhancement *Subtotals 2, 3, & 7* $350

Notes: Enhancement for two NOVs with same or similar violations.

Culpability No 0.0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* $0

Economic Benefit 0.0% Enhancement* *Subtotal 6* $0

Total EB Amounts $398
Approx. Cost of Compliance $15,100

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $3,850

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $3,850

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $3,850

DEFERRAL 0.0% Reduction *Adjustment* $0

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY $3,850

Screening Date	1-Jul-2009	**Docket No.**	2009-1102-PST-E	**PCW**
Respondent	Ella L. Lind			*Policy Revision 2 (September 2002)*
Case ID No.	37956			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105278824			
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*)	2	10%
	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 judgements 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) 10%

>> 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 two NOVs with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date	1-Jul-2009	**Docket No.** 2009-1102-PST-E	**PCW**
Respondent	Ella L. Lind		*Policy Revision 2 (September 2002)*
Case ID No.	37956		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105278824		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Elvia Maske		

Violation Number 1

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1

203 Number of violation days

mark only one with an x

daily	
weekly	
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 June 24, 2009 record review.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $1,100

This violation Final Assessed Penalty (adjusted for limits) $1,100

Economic Benefit Worksheet

Respondent Ella L. Lind
Case ID No. 37956
Reg. Ent. Reference No. RN105278824
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$100	10-Dec-2008	1-Feb-2010	1.15	$6	n/a	$6

Notes for DELAYED costs: Estimated cost to prepare and submit a UST registration. The date required is the date the owner was required to register the UST system (ownership change date plus 30 days) 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				0.00	$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 [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $100

TOTAL $6

Screening Date	1-Jul-2009	**Docket No.** 2009-1102-PST-E	**PCW**
Respondent	Ella L. Lind		*Policy Revision 2 (September 2002)*
Case ID No.	37956		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN105278824		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Elvia Maske		

Violation Number 2

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, a UST system 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

	Release	Harm: Major	Moderate	Minor
OR	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: 1

7 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended based on documentation of the violation during the June 24, 2009 record review date to the July 1, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $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 for this violation.

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $392

Statutory Limit Test

Violation Final Penalty Total $2,750

This violation Final Assessed Penalty (adjusted for limits) $2,750

Economic Benefit Worksheet

Respondent Ella L. Lind
Case ID No. 37956
Reg. Ent. Reference No. RN105278824
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$15,000	24-Jun-2009	1-Jan-2010	0.52	$392	n/a	$392

Notes for DELAYED costs: Estimated cost to remove USTs from service with an estimated combined capacity of 20,000 gallons at $0.75 per gallon. The date required is the date of the record review and the final date is the expected date of compliance.

Avoided Costs	ANNUALIZE [1] 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 [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $15,000

TOTAL $392

Compliance History Report

Customer/Respondent/Owner-Operator: CN603422353 Lind, Ella L. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105278824 Car Lot Classification: AVERAGE BY DEFAULT Site Rating: 3.01

Location: 11019 US HIGHWAY 290 E, MANOR, TX, 78653
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: July 01, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 01, 2004 to July 01, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Elvia Maske Phone: (512) 239 - 0789

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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Lind, Ella L
4. If Yes, who was/were the prior owner(s)/operator(s) ? WALLACE LUNDGREN CHEVROLET-PONTIAC, INC. Malin, Carol
5. When did the change(s) in owner or operator occur? 06/05/2008;11/10/2008
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, 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 06/11/2008 (682410)
2 06/17/2008 (682511)
3 10/31/2008 (706666)
4 11/13/2008 (707716)
5 11/13/2008 (707778)
6 06/26/2009 (759761)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/27/2007 (564098)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.7(a)(1)
Description: Failure to register with the Commission, on authorized Commission forms, (an) underground storage tank(s) (UST(s)) in existence on or after September 1, 1987.

Date: 11/17/2008 (707778)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.7(a)(1)
Description: Failure to register with the Commission, on authorized Commission forms, (an) underground storage tank(s) (UST(s)) in existence on or after September 1, 1987.

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 ELLA L. LIND; RN105278824	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2009-1102-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ella L. Lind ("Ms. Lind") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Lind, represented by Patrick Larkin of the law firm Strasburger & Price, L.L.P., appear before the Commission and together stipulate that:

1. Ms. Lind owns real property that includes five underground storage tanks ("USTs") located at 11019 United States Highway 290 East in Manor, Travis County, Texas (the "Facility"). Ms. Lind's USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Ms. Lind's USTs contain a regulated petroleum substance as defined in the rules of the Commission.

2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.

3. The Commission and Ms. Lind agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Lind is subject to the Commission's jurisdiction.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Lind of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of three thousand eight hundred fifty dollars ($3,850.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Lind paid one hundred seventy-five dollars ($175.00) of the administrative penalty. The remaining amount of three thousand six hundred seventy-five dollars ($3,675.00) of the administrative penalty shall be payable in 35 monthly payments of

one hundred and five dollars ($105.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Ms. Lind fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Ms. Lind's failure to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Lind to timely and satisfactorily comply with all of the terms of this Agreed Order

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and Ms. Lind agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Ms. Lind has not complied with one or more of the terms or conditions in this Agreed Order.

9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During a record review conducted on June 24, 2009, a TCEQ investigator documented that Ms. Lind violated:

   a. 30 TEX. ADMIN. CODE § 334.7(a)(1) by failing to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987; and

   b. 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

2. Ms. Lind received notice of the violations on or about July 1, 2009.

III. DENIALS

Ms. Lind generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms. Lind pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Ms. Lind's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Ella L. Lind, Docket No. 2009-1102-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. Ms. Lind shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, Ms. Lind shall permanently remove all of the Facility's USTs and UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and

   b. Within 45 days after the effective date of this Agreed Order, Ms. Lind shall submit an amended registration to reflect the owner's current contact information, date of ownership change, and status of the Facility's USTs and UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

      Registration and Reporting Section
      Permitting & Registration Support Division, MC138
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

   c. Within 60 days after the effective date of this Agreed Order, Ms. Lind 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 No. 2.a. through 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 fines 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:

Barry Kalda, Manager, Waste Section
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon Ms. Lind. Ms. Lind is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Ms. Lind fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Lind's failure to comply is not a violation of this Agreed Order. Ms. Lind shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Lind shall notify the Executive Director within seven days after Ms. Lind 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 Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Lind shall be made in writing to the Executive Director. Extensions are not effective until Ms. Lind receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Lind in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Ms. Lind, or three days after the date on which the Commission mails notice of this Agreed Order to Ms. Lind, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/24/2010
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Ms. Lind's compliance history;
- Greater scrutiny of any permit applications submitted by Ms. Lind;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Ms. Lind;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Ms. Lind; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Ella L. Lind 12/8/09
Signature Date

Ella L. Lind Owner of Facility
Name (Printed or typed) Title
Authorized representative of
Ella L. Lind