

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 15, 2009

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: The Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision and The Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision
B & M Unclaimed Freight, Inc.
SOAH Docket No. 582-08-3929; TCEQ Docket No. 2007-0859-MLM-E

Dear Ms. Castañuela:

Enclosed for filing are the originals of the 1) the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision and 2) the Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision.

Enclosed please also find one copy of this letter to you, one copy of the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision, one copy of the Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision, and one copy of the letter to the Administrative Law Judge. Please file stamp these documents and return them to Tracy Chandler, Attorney, Litigation Division, MC 175. If you have any questions or comments, please call me at (512) 239-0629.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Chandler", with a long horizontal stroke extending to the right.

Tracy Chandler
Attorney, Litigation Division

Enclosures

cc: Julia Fletcher, President, B & M Unclaimed Freight, Inc., 302 W. Navasota, Groesbeck, Texas 76642, Via CM/RRR No. 70041160000207302191 and Via First Class Mail, Postage Paid

La Donna Castañuela, Chief Clerk
B & M Unclaimed Freight, Inc.
Page 2

Julia Fletcher, President, B & M Unclaimed Freight, Inc., P.O. Box 222, Groesbeck,
Texas 76642, Via CM/RRR No. 70041160000207302207 and Via First Class Mail,
Postage Paid

Andy McSwain, Fulbright Winniford, P.C., P.O. Box 445, Waco, Texas 76703, Via
CM/RRR No. 70041160000207302214

Michael Meyer, Enforcement Division, TCEQ, MC 128

Frank Burleson, Water Section Manager and Waste Section Manager, TCEQ, MC R 9

Gary Goldman, Air Section Manager, TCEQ, MC R 9

Blas Coy, Public Interest Counsel, TCEQ, MC 103

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
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Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 15, 2009

Via Hand Delivery and Via Facsimile to: (512) 475-4994

The Honorable Lilo D. Pomerleau
State Office of Administrative Hearings
William P. Clements Building
300 West 15th Street, Suite 502
Austin, Texas 78701

Re: The Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision and The Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision;
B & M Unclaimed Freight, Inc.
SOAH Docket No. 582-08-3929; TCEQ Docket No. 2007-0859-MLM-E

To The Honorable Administrative Law Judge Pomerleau:

Please find enclosed a copy of 1) the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision and 2) the Executive Director's Proposed Order to Supplement the Executive Director's Exceptions to the Administrative Law Judge's Proposal for Decision. These pleadings are being filed in response to your Proposal for Decision dated August 26, 2009. If you have any questions or comments, please call me at (512) 239-0629.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Chandler", with a long horizontal stroke extending to the right.

Tracy Chandler
Attorney
Litigation Division

Enclosures

cc: Office of the Chief Clerk, MC 105
Julia Fletcher, President, B & M Unclaimed Freight, Inc., 302 W. Navasota, Groesbeck, Texas 76642, Via CM/RRR No. 70041160000207302191 and Via First Class Mail, Postage Paid
Julia Fletcher, President, B & M Unclaimed Freight, Inc., P.O. Box 222, Groesbeck, Texas 76642, Via CM/RRR No. 70041160000207302207 and Via First Class Mail, Postage Paid
Andy McSwain, Fulbright Winniford, P.C., P.O. Box 445, Waco, Texas 76703, Via CM/RRR No. 70041160000207302214

SOAH DOCKET NO. 582-08-3929
TCEQ DOCKET NO. 2007-0859-MLM-E

EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY,
PETITIONER

VS.

B & M UNCLAIMED FRIEGHT, INC.,
RESPONDENT

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BEFORE THE

STATE OFFICE OF

ADMINISTRATIVE HEARINGS

**THE EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE ADMINISTRATIVE LAW
JUDGE'S PROPOSAL FOR DECISION**

TO THE HONORABLE JUDGE POMERLEAU:

COMES NOW the Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "Commission"), represented by the Litigation Division, and files these Exceptions to the Administrative Law Judge's Proposal for Decision. In support thereof, the Executive Director would show the following:

PROPOSED ORDER

The Executive Director ("ED") respectfully requests that the Administrative Law Judge ("ALJ") make the following revisions to the Proposed Order:

The ED requests that the reference to "ANN." be removed throughout the Proposed Order. Therefore, all references to "TEX. WATER CODE ANN." and to "TEX. GOV'T CODE ANN." will be changed to "TEX. WATER CODE" and to "TEX. GOV'T CODE", respectively.

INTRODUCTION

The ED requests that the caption be revised to reflect the respondent's name as "B & M Unclaimed Freight, Inc." as opposed to "B & M Unclaimed Freight".

The ED requests that the reference to the Executive Director's Petition in the introductory sentence be revised. The ED further requests that the reference to the respondent in the introductory paragraph be revised to include the word, "Inc." Thus, the first sentence of the introductory paragraph will state, "On _____, the Texas Commission on Environmental Quality (Commission or TCEQ) considered the Executive Director's First Amended Report and Petition

(EDFARP) recommending that the Commission enter an enforcement order assessing administrative penalties against and requiring corrective action by B & M Unclaimed Freight, Inc. (Respondent)."

FINDINGS OF FACT

The ED requests that Paragraph 1 be revised to add the word "one" before the words "half acres". Therefore, the last sentence of Paragraph 1 will state, "The site consists of approximately three and one half acres (the Site)."

The ED requests that the date in Paragraph 9 be changed from July 29, 2008 to April 9, 2007. The ED further requests that the phrase "... a Notice of Enforcement..." be changed to "...Notices of Enforcement...".

The ED requests that in Paragraph 10, the abbreviation "(EDPRP)" be changed to "(EDFARP)". The ED further requests that the date in the first sentence of Paragraph 10 be changed from "June 30, 2008" to "June 30, 2009". The ED further requests that the end of the first sentence of Paragraph 10 be changed from "... adjacent to any Texas Waters" to, "... adjacent to any water in the state."

The ED requests that the word "violation" be added before the word "base penalty" in each of the three times the phrase appears in Paragraph 12. Therefore, Paragraph 12 will be revised to state, "The proposed penalty includes a violation base penalty of \$5,000 for failing to prevent and immediately abate a spill or discharge of municipal solid waste into or adjacent to any state waters; plus a violation base penalty of \$2,500 for failing to comply with the prohibition on outdoor burning; plus a violation base penalty of \$5,000 for failing to dispose of municipal solid waste at an authorized facility."

CONCLUSIONS OF LAW

The ED requests that the reference to "Julia Fletcher" be deleted from Paragraph 1 of the ordering provisions.

The ED requests that the reference to "30 TEX. ADMIN. CODE § 382.085(b)" be changed to "TEX. HEALTH & SAFETY CODE § 382.085(b)" and that a reference to "30 TEX. ADMIN. CODE § 330.15(c)" be added to Paragraph 3 of the ordering provisions. Therefore, Paragraph 3 of the ordering provisions will state, "Within 30 days after the effective date of the Commission Order, B & M shall remove all municipal solid waste and unlabeled waste from the Site and dispose of it an authorized facility, in accordance with TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 330.15(c)."

The ED requests that the first reference to 30 TEX. ADMIN. CODE § 350.33(1) and the comma following the rule citation be deleted from Paragraph 5 of the ordering provisions. The ED further requests that the comma following the reference to 30 TEX. ADMIN. CODE § 350.92 be deleted.

The ED requests that the signature line for the Chairman be changed from, "Buddy Garcia, Chairman" to "Bryan W. Shaw, Ph.D., Chairman".

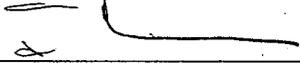
Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Kathleen C. Decker, Division Director
Litigation Division

By: 

Tracy Chandler
State Bar of Texas No. 24031929
Litigation Division, MC 175
P.O. Box 13087
Austin, Texas 78711-3087
Telephone: (512) 239-0629
Fax: (512) 239-3434

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2009, the original and seven (7) copies of the foregoing "The Executive Director's Exceptions to Administrative Law Judge's Proposal for Decision" ("Exceptions") were filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day a true and correct copy of the foregoing Exceptions was served in the manner prescribed below to the following:

Julia Fletcher, President
B & M Unclaimed Freight, Inc.
302 W. Navasota
Groesbeck, Texas 76642

Via CM/RRR No. 70041160000207302191
and First Class Mail, Postage Paid

Julia Fletcher, President
B & M Unclaimed Freight, Inc.
P.O. Box 222
Groesbeck, Texas 76642

Via CM/RRR No. 70041160000207302207
and First Class Mail, Postage Paid

Andy McSwain
Fulbright Winniford, P.C.
P.O. Box 445
Waco, Texas 76703

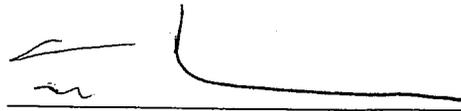
Via CM/RRR No. 70041160000207302214

The Honorable Lilo D. Pomerleau
State Office of Administrative Hearings
William P. Clements Building
300 West 15th Street, Suite 502
Austin, Texas 78701

Via Hand Delivery and Via Facsimile to
(512) 475-4994

Blas Coy, Jr.
Office of the Public Interest Counsel
Texas Commission on Environmental Quality

Via Electronic Mail



Tracy Chandler
Attorney
Litigation Division
Texas Commission on Environmental Quality

SOAH DOCKET NO. 582-08-3929
TCEQ DOCKET NO. 2007-0859-MLM-E

EXECUTIVE DIRECTOR OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY, PETITIONER V.
B & M UNCLAIMED FREIGHT, INC., RESPONDENT

SERVICE LIST

Mr. Andy McSwain
Fulbright Winniford, P.C.
P.O. Box 445
Waco, Texas 76703
(254) 776-6000 (telephone)
(254) 776-8555 (facsimile)

Julia Fletcher, President
B & M Unclaimed Freight, Inc.
302 W. Navasota
Groesbeck, Texas 76642
P.O. Box 222
Groesbeck, Texas 76642

Mr. Blas Coy
Office of Public Interest Counsel, MC 103
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
Public Interest Counsel

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER Assessing Administrative Penalties Against
and Requiring Corrective Action By
B & M Unclaimed Freight, Inc.
TCEQ DOCKET NO. 2007-0859-MLM-E
SOAH DOCKET NO. 582-08-3929**

On _____, the Texas Commission on Environmental Quality (Commission or TCEQ) considered the Executive Director's First Amended Report and Petition (EDFARP) recommending that the Commission enter an enforcement order assessing administrative penalties against and requiring corrective action by B & M Unclaimed Freight, Inc. (Respondent). Lilo D. Pomerleau, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), conducted a public hearing on this matter on July 28, 2009, in Austin, Texas, and presented the Proposal for Decision.

The parties to the proceeding are Respondent; the Commission's Executive Director (ED), represented by Tracy Chandler, attorney in TCEQ's Litigation Division; and the Office of Public Interest Counsel. After considering the ALJ's Proposal for Decision, the Commission makes the following Findings of Fact and Conclusions of Law.

I. FINDINGS OF FACT

1. Respondent leases property at 3951 Highway 164 East, Groesbeck, Limestone County, Texas, and operates an unclaimed freight and salvage business on this property. The site consists of approximately three and one half acres (the Site).
2. The Site is owned by Jules Thomas Rutledge aka Tommy Rutledge.
3. On February 16, 2007, Respondent burned wooden pallets and household trash in a burn pit on the Site in violation of a prohibition on outdoor burning. The fire in the burn pit

became uncontrollable and spread—engulfing containers and drums containing unknown chemicals and acids; a transformer; batteries; tires; and other municipal solid waste materials—on approximately 3.5 acres.

4. The burn did not meet an exception to the prohibition on outdoor burning.
5. As a result of the fire, the Waco Fire Department was called to the Site, but elected not to use water because the Site contained drums and barrels containing unknown chemicals.
6. As of February 16 and 17, 2007, approximately 5,000 cubic yards of municipal solid waste had been disposed of or discharged at the Site, including wood pallets, abandoned and unlabeled drums, trash material, vehicles, tires, metal, paint and paint containers, transformers, batteries, and municipal solid waste.
7. A seasonal creek bed contained waste and barrels of unknown substances, which were discharging on the ground.
8. On February 26, 2007, Respondent and Mr. Rutledge each submitted an inadequate action plan to address cleaning up and remediating the Site. Although both Respondent and Mr. Rutledge were informed that the plans were inadequate, Respondent took no further action.
9. On April 9, 2007, the TCEQ issued Notices of Enforcement for Compliance Evaluation Investigation to Respondent and Tommy Rutledge.
10. On June 30, 2009, the ED issued the Executive Director's First Amended Report and Petition (EDFARP) in accordance with TEX. WATER CODE § 7.054, alleging that Respondent violated 30 TEX. ADMIN. CODE § 327.5(a) and TEX. WATER CODE § 26.121(a)(1) by failing to prevent and immediately abate and contain a spill or discharge of municipal solid waste into or adjacent to any water in the state. The ED also alleged that Respondent violated 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to comply with the prohibition on outdoor

burning. The ED further alleged that Respondent violated 30 TEX. ADMIN. CODE § 330.15(c) by failing to dispose of municipal solid waste at an authorized facility.

11. The ED recommended the imposition of an administrative penalty in the amount of \$12,500 and corrective action by both Respondent and Tommy Rutledge to bring the Site into compliance.
12. The proposed penalty includes a violation base penalty of \$5,000 for failing to prevent and immediately abate a spill or discharge of municipal solid waste into or adjacent to any state waters; plus a violation base penalty of \$2,500 for failing to comply with the prohibition on outdoor burning; plus a violation base penalty of \$5,000 for failing to dispose of municipal solid waste at an authorized facility.
13. An administrative penalty of \$12,500 takes into account culpability, economic benefit, good faith efforts to comply, compliance history, release potential, and other factors set forth in TEX. WATER CODE § 7.053 and in the Commission's 2002 Penalty Policy.
14. On September 26, 2007, and March 11, 2008, Respondent and Mr. Rutledge, respectively, requested a contested case hearing on the allegations in the EDPRP.
15. On July 14, 2008, the case was referred to SOAH for a hearing.
16. On July 29, 2008, the Commission's Chief Clerk issued a notice of the preliminary hearing to all parties, which included the date, time, and place of the hearing, the legal authority under which the hearing was being held, and the violations asserted.
17. On September 4, 2008, the parties jointly filed a request to waive the preliminary hearing. This request was granted and jurisdictional documents were admitted by order on September 5, 2008.
18. The hearing on the merits was conducted on July 28, 2009, in Austin, Texas, by ALJ Lilo D. Pomerleau. The ED, represented by his attorney, Tracy Chandler, and Respondent represented by its President, Julia Fletcher, appeared.

19. At the hearing, the ED announced that a settlement had been reached with Mr. Rutledge and requested that all matters pertaining to Mr. Rutledge be severed and remanded to the ED for processing. An order was issued on August 3, 2009, granting the ED's request and remanding those issues to the ED.
20. The ALJ issued the Proposal for Decision on August 26, 2009.

II. CONCLUSIONS OF LAW

1. Under TEX. WATER CODE § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code, the Texas Health & Safety Code, or any rule, order, or permit adopted or issued thereunder.
2. Under TEX. WATER CODE § 7.052, a penalty may not exceed \$10,000 per violation, per day, for each of the violations at issue in this case.
3. Respondent is subject to the Commission's enforcement authority, pursuant to TEX. WATER CODE § 7.002.
4. Additionally, the Commission may order the violator to take corrective action. TEX. WATER CODE § 7.073.
5. As required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE §§ 1.11 and 70.104, Respondent was notified of the EDPRP and of the opportunity to request a hearing on the alleged violations or the penalties or corrective actions proposed therein.
6. As required by TEX. GOV'T CODE §§ 2001.051(1) and 2001.052; TEX. WATER CODE § 7.058; 1 TEX. ADMIN. CODE § 155.401, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.25, 70.104, and 80.6, Respondent was notified of the hearing on the alleged violations and the proposed penalties.

7. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, pursuant to TEX. GOV'T CODE ch. 2003.
8. Based on the above Findings of Fact and Conclusions of Law, Respondent violated TEX. WATER CODE § 26.121(a)(1); TEX. HEALTH & SAFETY CODE § 382.085(b), and 30 TEX. ADMIN. CODE §§ 111.201, 327.5(a), and 330.15(c).
9. In determining the amount of an administrative penalty, the ED considered several factors, as required by TEX. WATER CODE § 7.053, including:
 - The impact or potential impact on public health and safety, natural resources and their uses, and other persons;
 - The nature, circumstances, extent, duration, and gravity of the prohibited act;
 - The history and extent of previous violations by the violator;
 - The violator's degree of culpability, good faith, and economic benefit gained through the violation;
 - The amount necessary to deter future violations; and
 - Any other matters that justice may require.
10. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2002.
11. Based on consideration of the above Findings of Fact, the factors set out in TEX. WATER CODE § 7.053, and the Commission's Penalty Policy, the Executive Director correctly calculated the penalties for the alleged violation and a total administrative penalty of \$12,500 is justified and should be assessed against Respondent.
12. Based on the above Findings of Fact, Respondent should be required to take the corrective action measures that the Executive Director recommends.

NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:

1. B&M Unclaimed Freight, Inc., (B&M) is assessed an administrative penalty in the amount of \$12,500 for violations of TEX. WATER CODE § 26.121(a)(1); TEX. HEALTH & SAFETY CODE § 382.085(b), and 30 TEX. ADMIN. CODE §§ 111.201, 327.5(a), and 330.15(c). The payment of this administrative penalty and B&M's compliance with all the terms and conditions set forth in this Order will 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 that are not raised here. All checks submitted to pay the penalty assessed by this Order shall be made out to "Texas Commission on Environmental Quality." Administrative penalty payments shall be sent with the notation "Re: B&M Unclaimed Freight, Inc.; Docket No. 2007-0859-MLM-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. Immediately upon the effective date of this Order, B&M shall:
 - a. Cease all unauthorized burning and accepting of any additional waste at the Site, in accordance with 30 TEX. ADMIN. CODE §§ 111.201 and 330.15(c);
 - b. Cease discharging any additional waste into or adjacent to any waters in the state, in accordance with TEX. WATER CODE § 26.121(a)(1); and
 - c. Implement procedures to prevent and abate any future spills or discharges of municipal solid waste into or adjacent to any waters in the state, in accordance with 30 TEX. ADMIN. CODE § 327.5(a).
3. Within 30 days after the effective date of the Commission Order, B&M shall remove all municipal solid waste and unlabeled waste from the Site and dispose of it an authorized facility, in accordance with TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 330.15(c).
4. Within 60 days after the effective date of the Commission Order, B&M shall:

Collect representative soil or other appropriate media samples to evaluate the impact of the release and prepare an environmental site assessment to determine whether the release is subject to the Texas Risk Reduction Program (TRRP) rules in 30 TEX. ADMIN. CODE ch. 350. The environmental site assessment shall be conducted in accordance with the TCEQ guidance document "Determining Which Releases are Subject to TRRP" revised October 21, 2003. The environmental site assessment, including remediation plans or justification for no further action, as applicable, shall be submitted for review and approval to:

Environmental Cleanup Section
Remediation Division, MC 137 or 221
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. If the release is subject to TRRP, B&M shall comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 and 350.96; financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F and respond completely and adequately, as determined by the TCEQ, to all letter requests for information within 30 days after the date of such letters, or by any other deadline specified in writing.
6. Within 75 days after the effective date of the Commission Order, B&M 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 through 5. 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:

Frank Burleson, Waste Section and Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

and

Gary Goldman, Air Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Commission Order.
8. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
9. The effective date of this Order is the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 80.273 and TEX. GOV'T CODE § 2001.144.
10. As required by TEX. WATER CODE § 7.059, the Commission's Chief Clerk shall forward a copy of this Order to Respondent.
11. If any provision, sentence, clause, or phrase of this Order is for any reason held to be

invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Bryan W. Shaw, Ph.D., Chairman
For the Commission