

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

November 10, 2009

Les Trobman, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

Re: SOAH Docket No. 582-09-2077; TCEQ Docket No. 2008-0763-PST-E; In Re:
Executive Director of the Texas Commission on Environmental Quality v.
Randall Wayne Lykins

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
NOV 10 PM 1:03
CHIEF CLERKS OFFICE

Dear Mr. Trobman:

The above-referenced matter will be considered by the Texas Commission on Environmental Quality on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

Enclosed are copies of the Proposal for Decision and Order that have been recommended to the Commission for approval. Any party may file exceptions or briefs by filing the documents with the Chief Clerk of the Texas Commission on Environmental Quality no later than November 30, 2009. Any replies to exceptions or briefs must be filed in the same manner no later than December 10, 2009.

This matter has been designated **TCEQ Docket No. 2008-0763-PST-E; SOAH Docket No. 582-09-2077**. All documents to be filed must clearly reference these assigned docket numbers. All exceptions, briefs and replies along with certification of service to the above parties shall be filed with the Chief Clerk of the TCEQ electronically at <http://www10.tceq.state.tx.us/epic/efilings/> or by filing an original and seven copies with the Chief Clerk of the TCEQ. Failure to provide copies may be grounds for withholding consideration of the pleadings.

Sincerely,


Rebecca S. Smith
Administrative Law Judge

RSS/Ls
Enclosures
cc: Mailing List

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE

300 West 15th Street Suite 502
Austin, Texas 78701
Phone: (512) 475-4993
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SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)
STYLE/CASE: RANDALL WAYNE LYKINS
SOAH DOCKET NUMBER: 582-09-2077
REFERRING AGENCY CASE: 2008-0763-PST-E

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ REBECCA SMITH**

REPRESENTATIVE / ADDRESS

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RANDALL WAYNE LYKINS

xc: Docket Clerk, State Office of Administrative Hearings

SOAH DOCKET NO. 582-09-2077
TCEQ DOCKET NO. 2008-0763-PST-E

2009 NOV 10 PM 1:04

CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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BEFORE THE STATE OFFICE

OF

V.

RANDALL WAYNE LYKINS,
Respondent

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission) brings this enforcement action against Randall Wayne Lykins (Respondent). The ED alleges that Respondent violated the Commission's rules relating to petroleum underground storage tanks (USTs). The Administrative Law Judge (ALJ) finds that the ED proved the violations and recommends that the Commission approve the requested administrative penalty and corrective action.

I. JURISDICTION AND NOTICE

Respondent does not dispute the Commission's jurisdiction or notice, so no further discussion regarding notice or jurisdiction is included here. The attached Proposed Order contains the required Findings of Fact and Conclusions of Law concerning jurisdiction and notice.

II. BACKGROUND AND PROCEDURAL HISTORY

The ED alleges that Respondent owns property that used to be a gas station at 10973 Hwy 190E, Bon Wier, Newton County, Texas (the Facility). Although the station is no longer operating, at the time of the investigation, USTs remained on the property.

On March 27, 2008, the ED issued a Notice of Enforcement (NOE) to Respondent, alleging that Respondent had violated certain rules relating to USTs.¹ On October 23, 2008, Respondent filed a request for a contested case hearing.² The ED filed a First Amended Report and Petition on October 31, 2008.³

On January 9, 2009, the ED requested the Commission's Chief Clerk to refer this dispute to the State Office of Administrative Hearings (SOAH) for hearing,⁴ which the Chief Clerk did on January 15, 2009. On January 30, 2009, the Chief Clerk mailed notice of a March 19, 2009 preliminary hearing to the Respondent, the ED, and the Public Interest Counsel (PIC).⁵ The preliminary hearing was held, and the parties agreed to a schedule. The ED filed a Third Amended Report and Petition on April 21, 2009.⁶

The hearing on the merits convened on September 17, 2009, before ALJ Rebecca S. Smith. Staff Attorney Peipey Tang represented the ED. Respondent was represented by his attorney, Matt Morones, who appeared by telephone. Respondent, however, was not present and could not be reached by telephone. The record closed that day.

III. ALLEGED VIOLATIONS

A. Allegations

The ED alleges that Respondent violated two rules relating to USTs. First, the ED alleges that Respondent failed to remove from service, no later than 60 days after the prescribed upgrade

¹ ED. Ex. 6.

² ED Ex. B.

³ ED Ex. D.

⁴ ED Ex. C.

⁵ ED Ex. D.

⁶ ED Ex. 1.

implementation date, a UST system for which any applicable component of the system was not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2). Second, the ED alleges that Respondent failed to notify the Commission of any change or additional information regarding the USTs within 30 days of the occurrence of the change, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3). Specifically, the ED alleges that the registration was not updated to reflect correct ownership information and the current operational status of the USTs. The Commission's rules require these two items of information to be updated.⁷

Respondent challenged whether the ED established that he owned the property and also challenges the reasonableness of the ED's request for an order requiring him to hire an approved contractor to remove the USTs.

B. Evidence

The ED presented the testimony of Commission investigator Garry Tidwell. Mr. Tidwell was one of two Commission employees who investigated the Facility on October 17, 2006. The other employee, Nathan Norman, no longer works for the Commission. Mr. Norman prepared the written investigation report based on the investigation.⁸ This report was introduced into evidence.⁹

Mr. Tidwell testified he and Mr. Norman found evidence of USTs on the property. The Commission's registration database listed five USTs on the property.¹⁰ He and Mr. Norman found four of the tanks and measured liquid in three of them. One contained 2.5 inches of gas and 2 inches of water, the second had 2 inches of gasoline, and the other had 7 inches of diesel. These tanks were single-wall steel. Two of these tanks were installed in 1983; the other two were installed in 1965.

⁷ 30 TEX. ADMIN. CODE § 334.7 (d)(1)(A) & (B).

⁸ ED Ex. 2.

⁹ ED Ex. 2.

¹⁰ ED Ex. 3.

Mr. Tidwell testified that the USTs needed upgrading. In particular, Mr. Tidwell noted that the tanks lacked the required cathodic protection system to prevent corrosion. Without the cathodic protection, holes could develop. Mr. Tidwell also testified that he saw no signs of the tanks having been permanently removed from service.

Mr. Tidwell also testified that Respondent's name was not included in the Commission's petroleum storage tank records, which listed Charles C. Kelly, Jr. as the owner.¹¹ Mr. Norman obtained the information that Respondent owned the property from Newton County Appraisal District records. No one searched the Newton County Clerk's deed records.

At the inspection, the investigators found four violations.¹² These were:

- 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 was not brought into timely compliance with the upgrade requirements;
- Failure to ensure that any residue from stored regulated substances which remain in a temporarily out of service UST shall not exceed 2.5 centimeters at the deepest point and shall not exceed 0.3 percent by weight of the system at full capacity.
- Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons. This was to be done no later than the date on which the UST system had been out of service for a continuous period of three months, regardless of whether or not regulated substances remain in the UST system.
- Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

¹¹ ED Ex. 3.

¹² The second and third violations have been dropped.

Based on these findings, on November 13, 2006, a Notice of Violation for these alleged violations was sent to Respondent.¹³

The ED also called Charmaine Costner to testify. Ms. Costner is an environmental investigator for the Commission. She conducted a record review in this case and determined that Respondent had not submitted any documentation showing he had come into compliance.

Ms. Costner testified that the deadline for upgrading the USTs has passed, and that to comply with the rule, Respondent would need to permanently remove the tanks from service or upgrade them. She described the three methods for permanent removal from service: permanently removing the tanks, which requires hiring a licensed contractor; abandonment in place, which requires formal notice and approval; and change in service, which requires tanks to be cleaned and certified. All methods require filing paperwork with the Commission. Ms. Costner testified that she found no documentation indicating the USTs had been removed. Ms. Costner also testified that a co-owner is responsible for violations.

Ms. Costner described the self-certification/registration form, which lets the Commission know which facilities meet its requirements. The Commission keeps a database of this self-certification and registration. Ms. Costner noted that Respondent could have obtained information on compliance by calling the Commission's regional office.

Respondent did not present any evidence at the hearing.

C. Analysis

Respondent primarily argued that the ED failed to prove that he owned the property where the Facility is located. This argument had two parts: first, he argued that the ED failed to prove he owned the property at all and second, that the ED failed to prove he was the sole owner.

¹³ ED Ex. 2.

The ED relied on the Newton County Appraisal District's records to show ownership. Although the witnesses agreed that using the county clerk's deed records would be the best way to prove ownership, the county appraisal records satisfied the ED's burden. Those records provide evidence that Respondent owns the property, and no conflicting evidence or testimony suggested otherwise. If Respondent had evidence showing that the appraisal records were inaccurate, he could have presented it. Instead, he chose not to attend the hearing, and he did not introduce any evidence. The ED established ownership of the land.

Under the Commission's rules, the landowner is considered the owner of the UST, unless he can show otherwise:

For purposes of this chapter, if the actual ownership of a UST system ... is uncertain, unknown, or in dispute, the fee simple owner of the surface estate of the tract on which the UST system ... is located is considered the UST system ... owner unless that person can demonstrate by appropriate documentation, including a deed reservation, invoice, bill of sale, or by other legally acceptable means that the UST system or AST is owned by another person.¹⁴

In the absence of evidence that someone else owns the USTs while Respondent owns the land, the ED met its burden to show Respondent's ownership of the USTs.

Contrary to Respondent's second argument, nothing requires the ED to proceed against the *sole* owner. The UST requirements "apply equally to all owners and operators of regulated UST systems."¹⁵ The rules define "owner" as including "[a]ny person who holds legal possession or ownership of an interest in an underground storage tank (UST) system."¹⁶ The ED adequately showed that Respondent was an owner of the USTs and that it was therefore appropriate to bring administrative action against him.

¹⁴ 30 TEX. ADMIN. CODE § 334.2 (73).

¹⁵ 30 TEX. ADMIN. CODE § 334.1(b)(3).

Finally, the ED presented sufficient evidence that the violations occurred — that Respondent had neither timely upgraded nor permanently removed the USTs and that Respondent had not informed the Commission of change in the USTs' ownership. Mr. Tidwell testified that the USTs lacked cathodic protection. This upgrade was required under 30 TEX. ADMIN. CODE § 334.47(b). And there was ample evidence that the USTs had not been permanently removed. For the second violation, the Commission's records contained information about the previous owner, not about Respondent. Updated information had not been submitted to the Commission. In short, the ED established both violations.

IV. ADMINISTRATIVE PENALTY

Texas Water Code § 7.053 requires the Commission to consider the following factors when determining the amount of an administrative penalty:

- The violation's 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.

Additionally, the Commission has adopted a Penalty Policy to guide the computation and assessment of administrative penalties.¹⁷

The ED supported its requested penalty by presenting the testimony of Thomas Greimel, an enforcement coordinator with the Commission. Mr. Greimel described how he used the Penalty Policy to perform the calculations in the penalty calculation worksheet and reach the penalty amount. He also testified that because Respondent's facility had a throughput of less than 50,000 gallons per

¹⁶ 30 TEX. ADMIN. CODE § 334.2 (73).

¹⁷ ED Ex. 7.

month, the Penalty Policy classified it as a minor source. Mr. Greimel made the following determinations for each violation:

	Matrix	Release / Harm	Violation Category	No. of Violation Events	Violation Base Penalty
Violation No. 1	Environmental, Property, and Human Health	Potential Release / Major Harm	n/a	1 Monthly Event	\$2,500
Violation No. 2	Programmatic	n/a	Major Violation	1 Single Event	\$1,000

Mr. Greimel also concluded that only one adjustment to the \$3,500 total base penalty should be made. This adjustment is an enhancement of \$175 for one previous NOV with the same or similar violations.¹⁸ With this enhancement, he calculated the total penalty as \$3,675.

Mr. Greimel's calculation appears accurate and the requested penalty appropriate. The ALJ recommends that the Commission assess Respondent a \$3,675 penalty.

V. CORRECTIVE ACTION

In addition to the administrative penalty, the ED's Petition seeks to require Respondent to take certain corrective measures.¹⁹ Specifically, the ED requests that Respondent be ordered to permanently remove the UST system from service within 30 days from the effective date of the Commission Order, to submit an amended registration to reflect the correct ownership information and current operational status of the UST system, and to certify compliance with the above two measures.

Respondent argues that he has no cost-effective way of removing the USTs and that another solution should be reached. He also argues that no one from the Commission has returned to the

¹⁸ Because the \$3,091 economic benefit is less than \$15,000, no adjustment is made under the Penalty Policy.

¹⁹ TEX. WATER CODE ANN. § 7.073(2) provides the authority to require corrective action.

property to check that the USTs are still there and still in the same condition. Respondent does not argue that it would be improper to order him to submit a self-registration form with the Commission.

First, regarding the argument that no one has returned to check on the condition of the USTs, it is true that if the USTs have already been permanently removed, then Respondent would have already complied and corrective action would not be required. No one suggested that Respondent has appropriately and permanently removed the USTs, however. That Commission staff has not been to the property recently provides no reason not to order corrective action in the absence of any evidence that the USTs have been permanently removed.²⁰

Respondent's argument about the financial burden of removal is unsupported by evidence. Although his lawyer argued that Respondent could not afford the removal, no evidence was presented on that topic. Nor did he propose any other solutions to the problem of noncompliant USTs that could develop leaks.

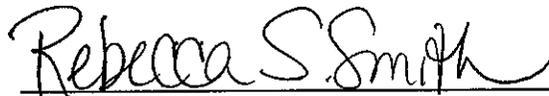
The ED's requests are justified. The ALJ recommends that the Commission include the ED's recommended corrective action requirements.

²⁰ Respondent's argument may also have been that the Commission cannot penalize him because it cannot establish the current state of the USTs. If that is the argument, it is unpersuasive; the evidence that the USTs were not in compliance at the time of the inspection was clear, and the ED seeks imposition of a penalty based on one monthly violation, not continuing until the present.

VI. CONCLUSION

Based on the evidence presented, the ALJ recommends that the Commission adopt the Findings of Fact and Conclusions of Law in the attached Order, assess an administrative penalty of \$3,675 against Respondent, and order Respondent to take the corrective action requested by the ED.

SIGNED November 10, 2009.



**REBECCA S. SMITH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

ASSESSING ADMINISTRATIVE PENALTIES AGAINST
RANDALL WAYNE LYKINS
SOAH DOCKET NO. 582-09-2077
TCEQ DOCKET NO. 2008-0763-PST-E

On _____, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the Executive Director's Preliminary Report and Petition (EDPRP) recommending that the Commission enter an order assessing administrative penalties and requiring corrective action against Randall Wayne Lykins (Respondent). A Proposal for Decision (PFD) was presented by Rebecca S. Smith, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH).

After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Respondent owns land that used to be a gas station at 10973 Hwy 190E, Bon Wier, Newton County, Texas (Facility).
2. Respondent owns five underground storage tanks (USTs) at the Facility that are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.

3. On October 17, 2006, TCEQ investigators Garry Tidwell and Nathan Norman conducted an inspection of Respondent's Facility and observed several violations of the TCEQ rules relating to underground storage tanks.
4. On March 27, 2008, the ED issued a Notice of Enforcement (NOE) to Respondent.
5. On October 28, 2008, Respondent requested a contested case hearing on the allegations in the EDPRP, and on January 15, 2009, the Chief Clerk referred this dispute to SOAH for hearing.
6. A Notice of Hearing was issued on January 30, 2009.
7. On April 21, 2009, the ED filed a Third Amended Report and Petition with the Commission's Chief Clerk and mailed a copy of it by U.S. first class mail and certified mail, return receipt requested, to Respondent at P.O. Box 969, De Quincy, Louisiana 70633. The Third Amended Report and Petition alleged that Respondent violated 30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.7(d)(3).
8. A preliminary hearing was held on March 19, 2009, before ALJ Rebecca S. Smith at SOAH, William P. Clements Building, Fourth Floor, 300 West 15th Street, Austin, Texas.
9. The evidentiary hearing convened on September 17, 2009, before ALJ Rebecca S. Smith also at SOAH, William P. Clements Building, Fourth Floor, 300 West 15th Street, Austin, Texas. The ED was represented by Staff Attorney Peipey Tang. Respondent was represented by his attorney, Matt Morones, who appeared by telephone. Respondent was not present and could not be reached by telephone. The record closed that day.

10. Respondent failed to 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 was not brought into timely compliance with the upgrade requirements.
11. Respondent failed to notify the Commission of any change or additional information within 30 days of the occurrence of the change, specifically, he failed update the registration to reflect correct ownership information and the current operational status of the USTs.
12. The ED recommended that the Commission enter an enforcement order assessing a total administrative penalty of \$3,675.
13. An administrative penalty of \$3,675 takes into account the factors contained in TEX. WATER CODE ANN. § 7.053 and the Commission's 2002 Penalty Policy.

II. CONCLUSIONS OF LAW

1. Under TEX. WATER CODE ANN. § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code or of the Texas Health and Safety Code within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder.
2. Under TEX. WATER CODE ANN. § 7.052, a penalty may not exceed \$10,000.00 per violation, per day for the violations alleged in this proceeding.
3. In addition to imposing an administrative penalty, the Commission may order the violator to take corrective action, as provided by TEX. WATER CODE ANN. § 7.073.
4. As required by TEX. WATER CODE ANN. § 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 and the proposed penalties and corrective actions.

5. As required by TEX. GOV'T CODE ANN. §§ 2001.051(1) and 2001.052; TEX. WATER CODE ANN. § 7.058; 1 TEX. ADMIN. CODE § 155.27; 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 and corrective actions.
6. 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 ANN. ch. 2003.
7. Based on the above Findings of Fact and Conclusions of Law:
 - (a) Respondent violated 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to 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 was not brought into timely compliance with the upgrade requirements;
 - (b) Respondent violated 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change;
8. In determining the amount of an administrative penalty, TEX. WATER CODE ANN. § 7.053 requires the Commission to consider several factors including:
 - Its 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.
9. The Commission has adopted a Penalty Policy setting out its policy regarding the computation and assessment of administrative penalties, effective September 1, 2002.
 10. Based on consideration of the above Findings of Fact, the factors set out in TEX. WATER CODE ANN. § 7.053, and the Commission's Penalty Policy, the Executive Director correctly calculated the penalties for each of the alleged violations and a total administrative penalty of \$3,675 is justified and should be assessed against Respondent.
 11. Based on the above Findings of Fact, Respondent should be required to take the corrective action that the Executive Director recommends.

III. ORDERING PROVISIONS

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

1. Within 30 days after the effective date of this Order, Randall Wayne Lykins shall pay an administrative penalty in the amount of \$3,675 for the violations of 30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.7(d)(3). The payment of this administrative penalty and compliance with all the terms and conditions set forth in this Order will completely resolve the violation set forth by this Order. However, the Commission shall not be constrained in any manner from requiring corrective actions or assessing penalties for other violations that are not raised here. Checks rendered to pay penalties imposed by this Order shall be made out to "TCEQ." Administrative penalty payments shall be sent with the notation "Re: Randall Wayne Lykins, TCEQ DOCKET NO. 2008-0763-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. Within 30 days after the effective date of this Order, Randall Wayne Lykins shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
3. Within 45 days after the effective date of this Order, Randall Wayne Lykins shall submit an amended registration to reflect the correct ownership information and the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7

to:

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

4. Within 60 days after the effective date of this Order, Mr. Lykins 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 paragraphs 2 and 3. 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 or 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:

Derek Eads, Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Randall Wayne Lykins if the Executive Director determines that Mr. Lykins has not complied with one or more of the terms or conditions in this Order.
6. 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.
7. 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 ANN. § 2001.144.
8. As required by TEX. WATER CODE ANN. § 7.059, the Commission's Chief Clerk shall forward a copy of this Order to Randall Wayne Lykins.
9. 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, Chairman
For the Commission**