

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

February 18, 2010

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

**VIA FACSIMILE NO. 512/239-5533**

Re: SOAH Docket No. 582-09-2813; TCEQ Docket No. 2008-1237-PST-E;  
Texas Commission on Environmental Quality v. Kenneth W. Blevins

Dear Mr. Trobman:

The Proposal for Decision (PFD) and proposed order for this case are scheduled for consideration by the Commission on March 10, 2010. The Executive Director (ED) filed exceptions to the PFD recommending assessment of an increased penalty against Respondent, Kenneth W. Blevins (Respondent) from \$1,000.00 payable over 10 months to the amount of \$3,600.00 payable over 36 months. I believe that the reasons for the recommended penalty have been adequately addressed in the PFD and proposed order, but the final decision as to the appropriate penalty amount is for the Commission to make.

Respondent, however, filed a letter voicing concerns about certain facts contained in the discussion section of the PFD. His letter stated that: (1) he purchased the property where the USTs are located in 1995, and not 1975, as was stated in the PFD; (2) a previous owner registered the USTs as out-of-service, because he did not register the USTs; (3) and he disagreed that the USTs had a monthly throughput of less than 50,000 gallons.

Based on these exceptions, I recommend only one change. Finding of Fact No. 1 should be revised to reflect that Petitioner purchased the property in 1995, and not 1975, as follows:

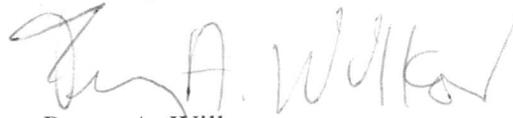
1. In ~~1975~~ 1995, Respondent purchased property (the property) located at 407 Hwy. 281, George West, Texas, with three underground storage tanks (USTs).

SOAH Docket No. 582-09-2813  
TCEQ Docket No. 2008-1237-PST-E  
Exceptions Letter  
Page 2

The year of purchase, however, was not a determining factor on any of the findings of violations. Further, the remainder of the exceptions, including the registration issue, were accurately stated in the order and therefore, I recommend that all of Respondent's other exceptions be overruled.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Penny A. Wilkov".

Penny A. Wilkov  
Administrative Law Judge

PAW/ap  
cc: Mailing List

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**AUSTIN OFFICE**

300 West 15th Street Suite 502

Austin, Texas 78701

Phone: (512) 475-4993

Fax: (512) 475-4994

**SERVICE LIST**

**AGENCY:** Environmental Quality, Texas Commission on (TCEQ)

**STYLE/CASE:** KENNETH W. BLEVINS

**SOAH DOCKET NUMBER:** 582-09-2813

**REFERRING AGENCY CASE:** 2008-1237-PST-E

---

**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

**ADMINISTRATIVE LAW JUDGE**

**ALJ PENNY WILKOV**

---

**REPRESENTATIVE / ADDRESS**

**PARTIES**

BLAS J. COY, JR.  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICE OF PUBLIC INTEREST COUNSEL  
P.O. BOX 13087, MC-103  
AUSTIN, TX 78711-3087  
(512) 239-6363 (PH)  
(512) 239-6377 (FAX)  
bcoy@tceq.state.tx.us

OFFICE OF PUBLIC INTEREST COUNSEL

---

LES TROBMAN  
GENERAL COUNSEL  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
MC-101 P.O. BOX 13087  
AUSTIN, TX 78711-3087

(512) 239-5533 (FAX)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

PHILLIP M. GOODWIN, P.G.  
STAFF ATTORNEY  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
LITIGATION DIVISION, MC 175  
PO BOX 13087  
AUSTIN, TX 78711  
(512) 239-0675 (PH)  
(512) 239-3434 (FAX)  
pgoodwin@tceq.state.tx.us

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

KENNETH BLEVINS  
P.O. BOX 523  
GEORGE WEST, TX 78022  
(361) 935-7325 (PH)

KENNETH BLEVINS

---

xc: Docket Clerk, State Office of Administrative Hearings