

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48000  
Randy Bowen a/k/a Randall G. Bowen d/b/a Bowens Tree Service  
RN106664188  
Docket No. 2013-2155-MSW-E

**Order Type:**

Default Order

**Media:**

MSW

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

2913 Cardinal Drive, Joshua, Johnson County

**Type of Operation:**

unauthorized disposal of municipal solid waste ("MSW")

**Other Significant Matters:**

Additional Pending Enforcement Actions: 2013-2152-MSW-E (same RN, different Respondent)  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** October 10, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$5,343

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$5,343

**Compliance History Classifications:**

Person/CN – Not Applicable  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48000  
Randy Bowen a/k/a Randall G. Bowen d/b/a Bowens Tree Service  
RN106664188  
Docket No. 2013-2155-MSW-E

**Investigation Information**

**Complaint Date(s):** March 26, 2013  
**Complaint Information:** Alleged that Respondent has been dumping mulch at the site for approximately 2 years.  
**Date(s) of Investigation:** October 15, 2013  
**Date(s) of NOV(s):** June 5, 2013  
**Date(s) of NOE(s):** November 25, 2013

**Violation Information**

Failed to prevent the unauthorized disposal of MSW (approx. 300 cu/yd. of processed wood waste) [30 TEX. ADMIN. CODE § 330.15(c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**  
None

**Technical Requirements:**

1. Immediately cease disposing of any additional waste at the Site.
2. Within 15 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** July 1, 2014; July 28, 2014  
**Date Green Card(s) Signed:** Unclaimed; July 30, 2014  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Elizabeth Carroll Harkrider, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Isabel Segarra Treviño, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Allyson Plantz, Enforcement Division, (512) 239-4593  
**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5800  
**Respondent Contact:** Randy Bowen, 3709 County Road 913, Joshua, TX 76058  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	25-Nov-2013			
	<b>PCW</b>	8-Sep-2014	<b>Screening</b>	26-Nov-2013	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Randall G. Bowen a/k/a Randy Bowen d/b/a Bowens Tree Service				
<b>Reg. Ent. Ref. No.</b>	RN106664188				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48000	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-2155-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Allyson Plantz
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,250
---	-------------------	---------

## 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>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$62
---------------------------	------------------	--------------------------------	------

<b>Notes</b>	Enhancement for one NOV with same/similar violations.
--------------	---

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

<b>Notes</b>	The Respondent does not meet the culpability criteria.
--------------	--

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$4,031	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,762	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,312
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	307.2%	<b>Adjustment</b>	\$4,031
---	--------	-------------------	---------

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with violation No. 1.
--------------	--

<b>Final Penalty Amount</b>	\$5,343
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,343
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
-----------------	----------------	-------------------	-----

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

<b>Notes</b>	Deferral not offered for non-expedited settlement.
--------------	--

<b>PAYABLE PENALTY</b>	\$5,343
------------------------	---------

**Screening Date** 26-Nov-2013

**Docket No.** 2013-2155-MSW-E

**PCW**

**Respondent** Randall G. Bowen a/k/a Randy Bowen d/b/a Bowe

*Policy Revision 3 (September 2011)*

**Case ID No.** 48000

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN106664188

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Allyson Plantz

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("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)**

**>> Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

**>> Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)**

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

<b>Screening Date</b>	26-Nov-2013	<b>Docket No.</b>	2013-2155-MSW-E	<b>PCW</b>
<b>Respondent</b>	Randall G. Bowen a/k/a Randy Bowen d/b/a Bowens Tree Ser			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	48000			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106664188			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Allyson Plantz			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 330.15(c)

**Violation Description**

Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 300 cubic yards of processed wood waste was disposed of at the Site.

**Base Penalty**

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

**OR**

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

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended from the October 15, 2013 investigation date to the November 26, 2013 screening date.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

**Notes**

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Randall G. Bowen a/k/a Randy Bowen d/b/a Bowens Tree Service  
**Case ID No.** 48000  
**Reg. Ent. Reference No.** RN106664188  
**Media Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### 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)	\$3,762	11-Apr-2013	15-Oct-2013	1.43	\$269	\$3,762	\$4,031

Notes for AVOIDED costs

The estimated cost to dispose of approximately 300 cubic yards of MSW at an authorized facility. The Date Required is the date of the initial complaint investigation and the Final Date is the date of the follow up investigation.

Approx. Cost of Compliance

\$3,762

**TOTAL**

\$4,031

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604493155, RN106664188, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN604493155, Randall G. Bowen a/k/a Randy Bowen **Classification:** N/A **Rating:** N/A  
**Regulated Entity:** RN106664188, Property Of Mr Edward G Dodson **Classification:** SATISFACTORY **Rating:** 4.00  
**Complexity Points:** 1 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 2913 CARDINAL DR, JOSHUA, TX 76058-4432, JOHNSON COUNTY  
**TCEQ Region:** REGION 04 - DFW METROPLEX  
**ID Number(s):** **MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER 455040206  
**MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER R04106664188

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** December 11, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 26, 2008 to November 26, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Allyson Plantz

**Phone:** (512) 239-4593

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

#### **1 Date: 06/05/2013 (1087352)**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failure to prevent the collection, storage, transportation, processing, or disposal of municipal solid waste (MSW) without proper authorization.

### **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

**THIS PAGE INTENTIONALLY LEFT BLANK**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
RANDY BOWEN AKA  
RANDALL G. BOWEN DBA  
BOWENS TREE SERVICE;  
RN106664188**

§  
§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2013-2155-MSW-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, 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 Randy Bowen a/k/a Randall G. Bowen d/b/a Bowens Tree Service ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent disposed of municipal solid waste ("MSW") at an unauthorized disposal site located at 2913 Cardinal Drive in Joshua, Johnson County, Texas (the "Site"). The Site involves the management and/or the disposal of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on October 15, 2013, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 300 cubic yards of processed wood waste was disposed of at the Site.
3. 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 Randy Bowen a/k/a Randall G. Bowen d/b/a Bowens Tree Service" (the "EDPRP") in the TCEQ Chief Clerk's office on July 1, 2014.
4. The EDPRP was mailed to Respondent's last known address on July 1, 2014, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on July 28, 2014.
6. By letter dated July 28, 2014, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on July 30, 2014, as evidenced by the signature on the certified mail "green card."
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Findings of Fact Nos. 3, 4, 5, and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer 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 Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of five thousand three hundred forty-three dollars (\$5,343.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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. Respondent is assessed an administrative penalty in the amount of five thousand three hundred forty-three dollars (\$5,343.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent'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.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Randall G. Bowen; Docket No. 2013-2155-MSW-E" to:  

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Respondent shall cease disposing of any additional waste at the Site.

- b. Within 15 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and:

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
6. If Respondent 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 3.b., above.
8. 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 Order.

9. 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.
10. 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.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

For the Commission

**AFFIDAVIT OF ELIZABETH CARROLL HARKRIDER**

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF TRAVIS**

"My name is Elizabeth Carroll Harkrider. 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 Randy Bowen a/k/a Randall G. Bowen d/b/a Bowens Tree Service" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 1, 2014.

The EDPRP was mailed to Respondent's last known address on July 1, 2014 via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on July 28, 2014.

The EDPRP was mailed to Respondent's last known address on July 28, 2014 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on July 30, 2014, as evidenced by the signature on the certified mail "green card."

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

*Elizabeth Carroll Harkrider*

Elizabeth Carroll Harkrider, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Elizabeth Carroll Harkrider, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Subscribed and sworn to before me on this 18<sup>th</sup> day of September, A.D. 2014.

*Dawn E Higgins*

Notary Public, State of Texas

