

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NUMBER: 2005-1917-IWD-E TCEQ ID NO: RN104712609 ENF ID: 27328
RESPONDENT NAME: RAY LONG DBA RAY LONG WASHOUT AND TRUCK SERVICE

ORDER TYPE:

| | | | |
|--|--|--|---|
| <input type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> SHUTDOWN ORDER | <input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> EMERGENCY ORDER | |

CASE TYPE:

| | | | |
|--|---|---|--|
| <input type="checkbox"/> AGRICULTURE | <input type="checkbox"/> AIR | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE | <input type="checkbox"/> MUNICIPAL SOLID WASTE |
| <input type="checkbox"/> OCCUPATIONAL CERTIFICATION | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> RADIOACTIVE WASTE |
| <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL | <input type="checkbox"/> USED OIL |
| <input type="checkbox"/> USED OIL FILTER | <input checked="" type="checkbox"/> WATER QUALITY | | |

SITE WHERE VIOLATION(S) OCCURRED: 1110 North Highway 287, Sunset, Montague County

TYPE OF OPERATION: Tractor trailer washout

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint regarding this facility was received by the TCEQ Abilene regional office on August 8, 2005. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: There have been complaints, but the complainants have not indicated a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 4, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Shawn Slack, Litigation Division, MC 175, (512) 239-0063; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Audra Ruble, Enforcement Division, MC R-14, (361) 825-3126

TCEQ Regional Contact: Mr. Charles Keith, Abilene Regional Office, MC R-3, (325) 698-6115

Respondent: Mr. Ray Long, Owner, dba Ray Long Washout and Truck Service, 1110 North Highway 287, Sunset, Texas 76270

Respondent's Attorney: Not represented by counsel.

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|---|---|
| <p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 8, 2005</p> <p>Date(s) of Investigation(s) Relating to this Case: August 17, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: September 12, 2005 (NOE) and December 7, 2005 (NOE)</p> <p>Background Facts: An EDRP was filed on August 10, 2006. The Respondent received notice of the EDRP on or about August 18, 2006. The staff attorney attempted to contact the Respondent before filing the EDRP, but was unable to reach him. The Respondent has not filed an answer or requested a hearing</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>IWD:</p> <p>Failed to prevent an unauthorized discharge of wastewater [30 TEX. ADMIN. CODE § 26.121(a)].</p> | <p>Total Assessed: \$7,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$7,500</p> <p>This is a Default Order.</p> <p>The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this Proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately cease all unauthorized discharges of waste and/ or wastewater. 2. Within 15 days, submit a plan describing how waste and/ or wastewater produced at the Facility will be managed. 3. Within 60 days, remove and properly dispose of all the sludge material from the two wastewater ponds. 4. Within 75 days, submit written certification notarized by a State of Texas Notary Public, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions. |

Washout Updated-2005-1917-IWD-E-dcp-Ray, Long APW
Penalty Calculation Worksheet (PCW)



Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

| | | | | |
|--------------|----------|-------------|-----------|-------------|
| DATES | Assigned | 12-Sep-2005 | | |
| | PCW | 03-May-2006 | Screening | 09-Nov-2005 |
| | | | EPA Due | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Ray Long dba Ray Long Washout and Truck Service |
| Reg. Ent. Ref. No. | RN104712609 |
| Facility/Site Region | 3-Abilene |
| Major/Minor Source | Minor Source |

| | | | |
|---------------------------------|-----------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 27328 | No. of Violations | 1 |
| Docket No. | 2005-1917-IWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Joseph Daley |
| Multi-Media | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$7,500 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|----------------|--------------------------------|------------|
| Compliance History | 0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|----------------|--------------------------------|------------|

Notes: No NOV's or Orders issued in the past five years.

| | | | | |
|--------------------|----|----------------|-------------------|------------|
| Culpability | No | 0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|----------------|-------------------|------------|

Notes: The respondent does not meet the culpability criteria.

| | | | |
|------------------------------------|--------------|-------------------|------------|
| Good Faith Effort to Comply | 0% Reduction | Subtotal 5 | \$0 |
|------------------------------------|--------------|-------------------|------------|

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with a small x) |

Notes: The respondent is not yet in compliance.

| | | | |
|-------------------------|-----------------|-------------------|------------|
| Economic Benefit | 0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-----------------|-------------------|------------|

| | | |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts | \$55 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$1,000 | |

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$7,500 |
|-----------------------------|-----------------------|----------------|

| | | | |
|---|--|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | | Adjustment | \$0 |
|---|--|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$7,500 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$7,500 |
|-----------------------------------|-------------------------------|----------------|

| | | | | |
|-----------------|--|-----------|-------------------|------------|
| DEFERRAL | | Reduction | Adjustment | \$0 |
|-----------------|--|-----------|-------------------|------------|

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

Notes: No deferral is offered with non-expedited cases.

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$7,500 |
|------------------------|----------------|

Screening Date 09-Nov-2005

Docket No. 2005-1917-IWD-E

PCW

Respondent Ray Long dba Ray Long Washout and Truck Service

Policy Revision 2 (September 2002)

Case ID No. 27328

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104712609

Media [Statute] Water Quality

Enf. Coordinator Joseph Daley

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 (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | 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 (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 (<i>number of audits for which notices were</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% |
| 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% |

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 0%

>> 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

No NOVs or Orders issued in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 09-Nov-2005 Docket No. 2005-1917-IWD-E

PGW

Respondent Ray Long dba Ray Long Washout and Truck Service

Policy Revision 2 (September 2002)

Case ID No. 27328

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104712609

Media [Statute] Water Quality

Enf. Coordinator Joseph Daley

Violation Number 1

Primary Rule Cite(s) Tex. Water Code § 26.121(a)

Secondary Rule Cite(s)

Violation Description Failure to prevent an unauthorized discharge of waste into or adjacent to any water in the State, as documented during an investigation conducted on August 17, 2005. Specifically, a pipe running from the tractor trailer washout area discharged wastewater directly into a creek.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | X | | 25% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | |

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

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 3

| | | |
|--------------------------------|--------------|---|
| mark only one use a small x | daily | |
| | monthly | X |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$7,500

Three monthly events are recommended from the date of the inspection, August 17, 2005, to the date of screening, November 9, 2005.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$55

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent: Ray Long dba Ray Long Washout and Truck Service
 Case ID No: 27328
 Reg. Ent. Reference No: RN104712609
 Media [Statute]: Water Quality
 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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| Delayed Costs | | | | | | | |
|--------------------------|---------|-------------|-------------|-----|-----|------|------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | \$1,000 | 17-Aug-2005 | 01-Jun-2006 | 0.8 | \$3 | \$53 | \$55 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: The delayed cost includes the estimated amount required to prevent an unauthorized discharged of wastewater, calculated from the date of investigation to the estimated date of compliance.

| Avoided Costs | | | | | | | |
|--|--|--|--|-----|-----|-----|-----|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN602885436 RAY LONG Classification: AVERAGE Rating: 3.01
Regulated Entity: RN104712609 RAY LONG WASHOUT AND TRUCK Classification: AVERAGE Site Rating: 3.01
SERVICE BY DEFAULT
ID Number(s):
Location: 1110 N Hwy 287, Sunset, TX 76270 Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: November 08, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 08, 2000 to November 08, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Joseph Daley Phone: 239-3308

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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 dates of investigations.

N/A

E. Written notices of violations (NOV).

N/A

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
RAY LONG DBA RAY LONG
WASHOUT AND TRUCK
SERVICE;
RN104712609

§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-1917-IWD-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 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 Ray Long dba Ray Long Washout and Truck Service ("Mr. Long").

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

FINDINGS OF FACT

1. Mr. Long owns and operates a tractor trailer washout located at 1110 North Highway 287, Sunset, Montague County, Texas (the "Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an inspection conducted on August 17, 2005, a TCEQ Abilene Regional Office investigator documented that Mr. Long failed to prevent an unauthorized discharge of wastewater. Specifically a pipe running from a tractor trailer washout area discharged wastewater directly into a creek.
4. Mr. Long received notice of enforcement on or about December 12, 2005.
5. 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 Ray

Long dba Ray Long Washout and Truck Service” (the “EDPRP”) in the TCEQ Chief Clerk’s office on August 10, 2006.

6. By letter dated August 10, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Long with notice of the EDPRP. Mr. Long signed the return receipt “green card,” but did not date it. The U.S. Post Office stamped the return receipt “green card,” with the date August 18, 2006, upon mailing the “green card” back to the Executive Director. Thus, Mr. Long received notice of the EDPRP on or about August 18, 2006, as evidenced by the signature and stamp on the card.
7. More than 20 days have elapsed since Mr. Long received notice of the EDPRP, provided by the Executive Director. Mr. Long failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Long is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Long failed to prevent an unauthorized discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Long with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Long has failed to file a timely answer to the EDPRP, 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 Mr. Long 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 Mr. Long for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’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 seven thousand five hundred dollars (\$7,500.00) 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. Mr. Long is assessed an administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Long'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. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Ray Long dba Ray Long Washout and Truck Service; Docket No. 2005-1917-IWD-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. Mr. Long shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Long shall cease all unauthorized discharges of waste and/or wastewater.
 - b. Within 15 days after the effective date of this Order, Mr. Long shall submit a plan describing how waste and/or wastewater produced at the Facility will be managed.
 - c. Within 60 days after the effective date of this Order, Mr. Long shall remove and properly dispose of all the sludge material from the two wastewater ponds.
 - d. Within 75 days after the effective date of this Order, Mr. Long shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. through 2.c.

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:

Charles Keith, Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Blvd.
Abilene, Texas 79602

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Long. Mr. Long is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Order.
5. If Mr. Long 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, Mr. Long's failure to comply is not a violation of this Order. Mr. Long shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Long shall notify the Executive Director within seven days after Mr. Long becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 Mr. Long shall be made in writing to the Executive Director. Extensions are not effective until Mr. Long receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
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 Mr. Long if the Executive Director determines that Mr. Long has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.

Ray Long dba Ray Long Washout and Truck Service
Docket No. 2005-1917-IWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHAWN A. SLACK

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Shawn A. Slack. 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, I 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 Ray Long dba Ray Long Washout and Truck Service” (the “EDPRP”) with the Office of the Chief Clerk on August 10, 2006.

I sent the EDPRP to Mr. Long at his last known address on August 10, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. Mr. Long signed the return receipt “green card,” but did not date it. The U.S. Post Office stamped the return receipt “green card,” with the date August 18, 2006, upon mailing the “green card” back to the Executive Director. Thus, Mr. Long received notice of the EDPRP on or about August 18, 2006, as evidenced by the signature and stamp on the card.

More than 20 days have elapsed since Mr. Long received notice of the EDPRP. Mr. Long failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Shawn A. Slack
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 29th day of September, A.D., 2006.

.....
.....
.....
 JACQUELINE FRANCES DUCKWORTH
Notary Public, State of Texas
My Commission Expires
MARCH 07, 2007
.....
Notary Seal
Notary without Bond