

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-0686-WQ-E TCEQ ID: RN104298997 CASE NO.: 29653**  
**RESPONDENT NAME: JOHN W. RICE DBA JR USED AUTO PARTS**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 628 County Road 3053, Orange Grove, Jim Wells County</p> <p><b>TYPE OF OPERATION:</b> Auto salvage yard</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There has been one complaint. There is no record of additional pending enforcement actions regarding this person.</p> <p><b>INTERESTED PARTIES:</b> One complaint has been received but the complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 10, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Ms. Lynley Doyen, Water Enforcement Section, MC 169, (512) 239-1364  <b>TCEQ Regional Contact:</b> Mr. Sinoel Contreras, Corpus Christi Regional Office, MC R-14, (361) 825-3112  <b>Respondent:</b> Mr. John W. Rice, Owner, JR Used Auto Parts, 628 County Road 3053, Orange Grove, Texas 78372  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b>                      November 3, 2004</p> <p><b>Dates of Investigation Relating to this Case:</b>                      November 4, 2004 and May 23, 2006</p> <p><b>Date of NOV/NOEs Relating to this Case:</b>                      December 3, 2004 (NOV) and June 2, 2006 (NOE)</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed on August 30, 2006. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on September 6, 2006, as evidenced by the signature on the card. The Respondent failed to respond to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>WQ:</b></p> <p>Failed to obtain authorization to discharge storm water associated with auto salvage yard activities into water in the state through an individual permit or Multi-Sector General Permit Issued under the Texas Pollutant Discharge Elimination System [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c)].</p>	<p><b>Total Assessed:</b> \$1,050</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$1,050</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter to comply with the Multi-Sector Industrial General Permit requirements.</li> <li>2. Within 45 days, submit written certification to demonstrate compliance.</li> </ol>



**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

<b>DATES</b>	Assigned	05-Jun-2006	Screening	07-Jun-2006	EPA Due	
	PCW	11-Aug-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	John W. Rice dba JR Used Auto Parts
Reg. Ent. Ref. No.	RN104298997
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	29653	No. of Violations	1
Docket No.	2006-0686-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$1,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 5% Enhancement Subtotals 2, 3, & 7 \$50

Notes: The penalty is enhanced because the Respondent received one NOV with violations that are the same or similar to those cited in this action.

**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 EDRP/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	\$87	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,500	

**SUM OF SUBTOTALS 1-7** Final Subtotal \$1,050

**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** \$1,050

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$1,050

**DEFERRAL** Reduction Adjustment \$0

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

Notes: Deferral not offered because this case is not expedited.

**PAYABLE PENALTY** \$1,050

Screening Date 07-Jun-2006

Docket No. 2006-0686-WQ-E

PCW

Respondent John W. Rice dba JR Used Auto Parts

Policy Revision 2 (September 2002)

Case ID No. 29653

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104298997

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

**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> )	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</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

The penalty is enhanced because the Respondent received one NOV with violations that are the same or similar to those cited in this action.

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

Screening Date 07-Jun-2006

Docket No. 2006-0686-WQ-E

PCW

Respondent John W. Rice dba JR Used Auto Parts

Policy Revision 2 (September 2002)

Case ID No. 29653

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104298997

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input checked="" type="checkbox"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

Violation Base Penalty

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** John W. Rice dba JR Used Auto Parts  
**Case ID No.** 29653  
**Reg. Ent. Reference No.** RN104298997  
**Media [Statute]** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
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	\$2,500	23-May-2006	31-Jan-2007	0.7	\$87	n/a	\$87
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost associated with preparing, submitting, and obtaining an appropriate permit and Storm Water Pollution Prevention Plan. Date required is the initial date the Respondent was notified to obtain authorization. Final date is the anticipated date of compliance.

<b>Avoided Costs</b>	<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>						
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: N/A

Approx. Cost of Compliance **\$2,500**

**TOTAL \$87**

## Compliance History

Customer/Respondent/Owner-Operator: CN602644486 RICE, JOHN W Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN104298997 JR USED AUTO PARTS Classification: AVERAGE Site Rating: 1.50  
ID Number(s):  
Location: 628 COUNTY ROAD 3053, JIM WELLS COUNTY, TX Rating Date: 9/1/2005 Repeat Violator: NO  
TCEQ Region: REGION 14 - CORPUS CHRISTI  
Date Compliance History Prepared: June 07, 2006  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 07, 2001 to June 07, 2006  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Lynley Doyen Phone: 512/239-1364

### 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 judgments, 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 approval dates of investigations. (CCEDS Inv. Track. No.)  
1 05/31/2006 (480406)  
2 01/31/2005 (348479)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 12/03/2004 (340195)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
Description: Failure to obtain authorization to discharge storm water associated with an industrial activity to water in the state through an individual permit or the Multi-Sector General Permit (MSGP) TXR050000 issued under the Texas Pollutant Discharge Elimination System (TPDES).
- 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  
JOHN W. RICE DBA JR USED  
AUTO PARTS;  
RN104298997**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2006-0686-WQ-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 John W. Rice dba JR Used Auto Parts ("Mr. Rice").

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

**FINDINGS OF FACT**

1. Mr. Rice owns and operates an auto salvage yard located at 628 County Road 3053, Orange Grove, Jim Wells 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 investigation conducted on May 23, 2006, a TCEQ Corpus Christi Regional Office investigator documented that Mr. Rice failed to obtain authorization to discharge storm water associated with auto salvage yard activities into water in the state through an individual permit or Multi-Sector General Permit issued under the Texas Pollutant Discharge Elimination System.
4. Mr. Rice received notice of the violation on or about June 23, 2006.

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 John W. Rice dba JR Used Auto Parts" (the "EDPRP") in the TCEQ Chief Clerk's office on August 30, 2006.
6. By letter dated August 30, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Rice with notice of the EDPRP. According to the return receipt "green card," Mr. Rice received notice of the EDPRP on September 6, 2006, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Rice received notice of the EDPRP, provided by the Executive Director. Mr. Rice 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. Rice 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. Rice failed to obtain authorization to discharge storm water associated with auto salvage yard activities into water in the state through an individual permit or Multi-Sector General Permit issued under the Texas Pollutant Discharge Elimination System, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Rice 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. Rice 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. Rice 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. Rice for violations of the Texas Water 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 one thousand fifty dollars (\$1,050.00) 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. Rice is assessed an administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. Rice'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: John W. Rice dba JR Used Auto Parts; Docket No. 2006-0686-WQ-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. Rice shall undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Order, Mr. Rice shall develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter to comply with the Multi-Sector Industrial General Permit requirements in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c) to:

Texas Commission on Environmental Quality  
Wastewater Permitting Section, MC 148  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Mr. Rice shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with ordering provision No. 2.a. 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.”

Mr. Rice shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. 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:

Sinoel Contreras, Water Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
NRC Building, Ste. 1200  
6300 Ocean Drive, Unit 5839  
Corpus Christi, Texas 78412-5839

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. Rice. Mr. Rice is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Mr. Rice 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. Rice's failure to comply is not a violation of this Order. Mr. Rice shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Rice shall notify the Executive Director within seven days after Mr. Rice 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. Rice shall be made in writing to the Executive Director. Extensions are not effective until Mr. Rice 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. Rice if the Executive Director determines that Mr. Rice 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.

John W. Rice dba JR Used Auto Parts  
Docket No. 2006-0686-WQ-E  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF LENA ROBERTS**

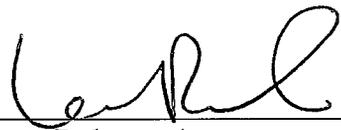
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Lena Roberts. 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 John W. Rice dba JR Used Auto Parts” (the “EDPRP”) was filed with the Office of the Chief Clerk on August 30, 2006.

The EDPRP was mailed to Mr. Rice at his last known address on August 30, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Rice received notice of the EDPRP on September 6, 2006, as evidenced by the signature on the card.

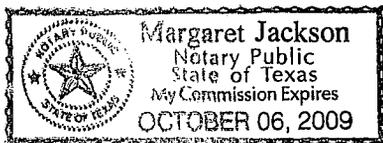
More than 20 days have elapsed since Mr. Rice received notice of the EDPRP. Mr. Rice failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



\_\_\_\_\_  
Lena Roberts, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, 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.

Given under my hand and seal of office this 25 day of June, A.D., 2007.

  
\_\_\_\_\_  
Notary Signature