EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1343-DCL-E **TCEQ ID:** RN104964093 **CASE NO.:** 30817

RESPONDENT NAME: Ruben N. McNeely dba Freshen Clean

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY	X DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: Freshen Clean, 1211 East Red Bird Lane, Dallas, Dallas County

TYPE OF OPERATION: Dry cleaner drop station

SMALL BUSINESS: __X__ Yes ____ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 22, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Alison Echlin, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-3308; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Ruben McNeely, Owner, Freshen Clean, 1211 East Red Bird Lane, Dallas, Texas 75241

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Dates of Investigations Relating to this Case:** May 26 and August 16, 2006 **Date of NOE Relating to this Case:** August 3, 2006 (NOE) **Background Facts:** This were routine investigations. Two violations were documented. **WASTE** 1) Failed to complete and submit the required registration form to the TCEQ for the Facility [30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102]. 2) Failed to pay outstanding dry cleaner fees for TCEQ Financial Account No. 24003902 for fiscal years 2004, 2005, and 2006 [30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702].	**Total Assessed:** $1,185 **Total Deferred:** $237 _X_Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $158 (remaining $790 due in 5 monthly payments of $158 each) **Site Compliance History Classification:** __High __Avg. __Poor **Person Compliance History Classification:** __High __Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that Mr. McNeely submitted submitted a current registration for the Facility on June 5, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to: a. Within 15 days after the effective date of this Agreed Order, submit payment for outstanding fees, including any associated penalties and interest; and b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES

Assigned	14-Aug-2006				
PCW	18-Aug-2006	**Screening**	17-Aug-2006	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	Ruben N. McNeely dba Freshen Clean		
Reg. Ent. Ref. No.	RN104964093		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor Source

CASE INFORMATION

Enf./Case ID No.	30817	**No. of Violations**	2
Docket No.	2006-1343-DCL-E	**Order Type**	1660
Media Program(s)	Drycleaner	**Enf. Coordinator**	Alison Echlin
Multi-Media		**EC's Team**	Enforcement Team 8
Admin. Penalty $ Limit Minimum	$0	**Maximum**	$50

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $1,185

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: The respondent has no previous NOVs or Orders at this site 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 does not meet the good faith criteria.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$9
Approx. Cost of Compliance	$250

SUM OF SUBTOTALS 1-7 **Final Subtotal** $1,185

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 $1,185

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** $1,185

DEFERRAL 20% Reduction **Adjustment** -$237

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $948

Screening Date	17-Aug-2006	**Docket No.** 2006-1343-DCL-E	**PCW**
Respondent	Ruben N. McNeely dba Freshen Clean		*Policy Revision 2 (September 2002)*
Case ID No.	30817		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN104964093		
Media [Statute]	Drycleaner		
Enf. Coordinator	Alison Echlin		

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 *(number of NOVs meeting criteria)*	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	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 *(number of judgements or consent decrees meeting criteria)*	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 *(number of counts)*	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 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
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) **0%**

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) **0%**

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

N/A

Adjustment Percentage (Subtotal 7) **0%**

>> Compliance History Summary

Compliance History Notes The respondent has no previous NOVs or Orders at this site in the past five years.

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

Screening Date 17-Aug-2006 **Docket No.** 2006-1343-DCL-E **PCW**

Respondent Ruben N. McNeely dba Freshen Clean *Policy Revision 2 (September 2002)*

Case ID No. 30817 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN104964093

Media [Statute] Drycleaner

Enf. Coordinator Alison Echlin

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 337.10(a)

Secondary Rule Cite(s) Tex. Health & Safety Code § 374.102

Violation Description The respondent failed to complete and submit the required registration form to the TCEQ for a dry cleaning and/or drop station facility.

Base Penalty $50

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$45

Base Penalty Subtotal $5

Violation Events

Number of Violation Events: 237

mark only one (use a small x)	
daily	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,185

Two hundred thirty-seven daily events are recommended from the September 1, 2005 deadline to the April 26, 2006 deadline established by the TCEQ letter dated March 24, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $9

Statutory Limit Test

Violation Final Penalty Total $1,185

This violation Final Assessed Penalty (adjusted for limits) $1,185

Economic Benefit Worksheet

Respondent: Ruben N. McNeely dba Freshen Clean
Case ID No.: 30817
Reg. Ent. Reference No.: RN104964093
Media [Statute]: Drycleaner
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)				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	$250	01-Sep-2005	05-Jun-2006	0.8	$9	n/a	$9
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The estimated cost to register a dry cleaning or drop station facility annually. The date required is the date that the completed registration form was due and the final date is the date the respondent came into 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: $250

TOTAL: $9

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date	17-Aug-2006
Docket No.	2006-1343-DCL-E
Respondent	Ruben N. McNeely dba Freshen Clean
Case ID No.	30817
Reg. Ent. Reference No.	RN104964093
Media [Statute]	Drycleaner
Enf. Coordinator	Alison Echlin
Violation Number	2
Primary Rule Cite(s)	30 Tex. Admin. Code § 337.14(c)
Secondary Rule Cite(s)	Tex. Water Code § 5.702
Violation Description	Failed to pay outstanding drycleaning fees for TCEQ Financial Account No. 24003902 for fiscal years 2004, 2005, and 2006, as documented during a record review conducted on August 16, 2006.

Base Penalty $50

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: No penalty is calculated for this violation.

Adjustment -$50

Base Penalty Subtotal $0

Violation Events

Number of Violation Events

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent: Ruben N. McNeely dba Freshen Clean
Case ID No.: 30817
Reg. Ent. Reference No.: RN104964093
Media [Statute]: Drycleaner
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)				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				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	N/A						
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	N/A						

Approx. Cost of Compliance: $0

TOTAL: $0

Compliance History

Customer/Respondent/Owner-Operator:	CN603044702	MCNEELY, RUBEN N	Classification:	Rating:
Regulated Entity:	RN104964093	FRESHEN CLEAN	Classification:	Site Rating:

ID Number(s):

Location: 1211 E RED BIRD LN, DALLAS, TX, 75241

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: August 16, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 16, 2001 to August 16, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: 512-239-3308 Phone: Alison Echlin

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 approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/11/2006 (488164)

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

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
RUBEN N. MCNEELY DBA FRESHEN	§	
CLEAN	§	**ENVIRONMENTAL QUALITY**
RN104964093	§	

AGREED ORDER
DOCKET NO. 2006-1343-DCL-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ruben N. McNeely dba Freshen Clean ("Mr. McNeely") under the authority of TEX. HEALTH & SAFETY CODE ch. 374 and TEX. WATER CODE chs. 5 and 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. McNeely appear before the Commission and together stipulate that:

1. Mr. McNeely owns and operates a dry cleaner drop station at 1211 East Red Bird Lane in Dallas, Dallas County, Texas (the "Facility").

2. The TCEQ has general authority to regulate the Facility pursuant to TEX. HEALTH & SAFETY CODE § 374.051.

3. The Commission and Mr. McNeely agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. McNeely is subject to the Commission's jurisdiction.

4. Mr. McNeely received notice of the violations alleged in Section II ("Allegations") on or about August 8, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. McNeely of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand One Hundred Eighty-Five Dollars ($1,185) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. McNeely has paid One Hundred Fifty-Eight Dollars ($158) of the administrative penalty and Two Hundred Thirty-Seven Dollars ($237) is deferred contingent upon Mr. McNeely's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. McNeely fails to timely and satisfactorily comply with all requirements of this Agreed Order,

including the payment schedule, the Executive Director may require Mr. McNeely to pay all or part of the deferred penalty.

The remaining amount of Seven Hundred Ninety Dollars ($790) of the administrative penalty shall be payable in five monthly payments of One Hundred Fifty-Eight Dollars ($158) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. McNeely fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. McNeely to meet the payment schedule of this Agreed Order constitutes the failure by Mr. McNeely to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Mr. McNeely have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Mr. McNeely submitted submitted a current registration for the Facility on June 5, 2006.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. McNeely has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. McNeely is alleged to have:

1. Failed to complete and submit the required registration form to the TCEQ for the Facility, in violation of 30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102, as documented during an investigation conducted on May 26, 2006.

2. Failed to pay outstanding dry cleaner fees for TCEQ Financial Account No. 24003902 for fiscal years 2004, 2005, and 2006, in violation of 30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702, as documented during a record review conducted on August 16, 2006.

III. DENIALS

Mr. McNeely generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. McNeely pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. McNeely's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ruben N. McNeely dba Freshen Clean, Docket No. 2006-1343-DCL-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. It is further ordered that Mr. McNeely shall undertake the following technical requirements:

   a. Within 15 days after the effective date of this Agreed Order, submit payment for outstanding fees, including any associated penalties and interest and with the notation, "Ruben N. McNeely dba Freshen Clean, Account No. 24003902", to the address listed in Ordering Provision 1; and

   b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a. as described below:

      The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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:

Manager, Waste Section
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. McNeely. Mr. McNeely is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Mr. McNeely fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. McNeely's failure to comply is not a violation of this Agreed Order. Mr. McNeely shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. McNeely shall notify the Executive Director within seven days after Mr. McNeely becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. McNeely shall be made in writing to the Executive Director. Extensions are not effective until Mr. McNeely receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. McNeely in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. McNeely, or three days after the date on which the Commission mails notice of the Order to Mr. McNeely, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

2/6/07
~~10/23-06~~
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

X RUBEN N McNEELY
Signature

10-23-06
Date

RUBEN N McNEELY
Name (Printed or typed)
Authorized Representative of
Ruben N. McNeely dba Freshen Clean

OWNER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.