Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0820-DCL-E **TCEQ ID:** RN103959417 **CASE NO.:** 29968

RESPONDENT NAME: John Nichols dba Best Cleaners

ORDER TYPE:			
X 1660 AGREED ORDER	FINDINGS AGREED ORDER		
_SHUTDOWN ORDER	FINDINGS DEFAULT ORDER	_EMERGENCY ORDER	ENDANGERMENT 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	
TYPE OF OPERATION: Dry cleaning	ng drop station		·
OTHER SIGNIFICANT MATTERS	: There are no complaints. There is no rec	ord of additional pending enforcement actions re	garding this facility location.
INTERESTED PARTIES: No one of	her than the ED and the Respondent has ex	pressed an interest in this matter.	
COMMENTS RECEIVED: The Texa	as Register comment period expired on Jan	uary 29, 2007. No comments were received.	
CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coord TCEQ Enforcement Coordin Enforcement Section I, MC 2	inator: None ator: Ms. Shontay Wilcher, Enforcement D	ivision, Enforcement Section IV, MC 128, (512) 2.	39-2136; Mr. Steven Lopez, Enforcement Division
·	ls, Owner, Best Cleaners, 201 West Tyler S	Street, Longview, Texas 75601	

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

RESPONDENT'S NAME: John Nichols dba Best Cleaners DOCKET NO.: 2006-0820-DCL-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: Complaint X Routine Enforcement Follow-up Records Review	Total Assessed: \$105	Corrective Action Taken
Date of Complaints Relating to this Case: None	Total Deferred: \$21 X Expedited Settlement	The Executive Director recognizes that Mr. Nichols submitted a completed registration form to the TCEQ on May 31, 2006.
Date of Investigation Relating to this Case: May 24, 2006	Financial Inability to Pay	
Date of NOE Relating to this Case: June 22, 2006 (NOE)	SEP Conditional Offset: \$0	
Background Facts: This was a routine scheduled investigation for compliance with the dry cleaner program. One significant	Total Paid to General Revenue: \$84	
program violation was observed.	Site Compliance History Classification:HighAvgPoor	
WASTE	Person Compliance History Classification:HighAvgPoor	
Failure to complete and submit the required registration form to the TCEQ for the facility [30 Tex. ADMIN: CODE §:337.10(a)	Major Source: Yes _X_ No	
and Tex. Health & Safety Code § 374.102].	Applicable Penalty Policy: September 2002	

	Page 1 of 4 03/09/07 C:\WINNT\Temp\2006-0820-DCL-E-qcp-JNico	hols.qpw
	Penalty Calculation Worksheet (PCW)	
Policy Revision 2		PCW Revision May 19, 2005
TCFQ		
DATES Assigned	26-Jun-2006	
PCW		
The second second second section of the second	The state of the s	THE METERS OF THE PARTY OF THE
RESPONDENT/FACIL	ITY INFORMATION	
Respondent	John Nichols dba Best Cleaners	
Reg. Ent. Ref. No.		
Facility/Site Region		Minor Source <
	- Company of the second of the	
CASE INFORMATION		
Enf./Case ID No.		
Docket No.	2006-0820-DCL-E Order Type	1660 <
Media Program(s)	Drycleaner < Enf. Coordinator	Christina J. Martinez
Multi-Media	EC's Team	Enforcement Team 7
Admin. Penalty \$ L	imit Minimum \$0 Maximum \$50	The second secon
		· ·
	Penalty Calculation Section	
	•	
TOTAL BASE PE	NALTY (Sum of violation base penalties)	Subtotal 1 \$140
	•	
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
	obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance l		otals 2, 3, & 7 \$0
Notes	No enhancement due to compliance history.	
-	00/ 5	0
Culpability	No < 0% Enhancement	Subtotal 4 \$0
Notes	The respondent does not meet the culpability criteria.	
	The respondent section of the sectio	
Good Faith E	ffort to Comply 25% Reduction	Subtotal 5 -\$35
	Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary		
Ordinary	X	
N/A	(mark with a small x)	· 1
Notes	The respondent came into compliance before the Notice of Enforcement	
140103	was issued.	
Economic Be	enefit 0% Enhancement*	Subtotal 6 \$0
	Total EB Amounts \$2 *Capped at the Total EB \$ Amount	•
Approx. C	Cost of Compliance \$250	
,		
SUM OF SUBTO	TALS 1-7	Final Subtotal \$105
OTHER FACTOR	S AS JUSTICE MAY REQUIRE	Adjustment \$0
	Final Subtotal by the indicated percentage. (Enter number only; e.g30 for -30%.)	
Trouges of officers are	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	7
Notes		
	Final Dr.	enalty Amount \$105
	Final Pe	anaity Amount \$10:
OTATITODY	UT AD HIOTMENT	agged Bengity 640
STATUTORY LIN	IIT ADJUSTMENT Final Ass	essed Penalty \$105
	Proceeded to the American	
DEFERRAL	20% Reduction	Adjustment -\$21
Reduces the Final Assess	ed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)	_
Notes	Deferral offered for expedited settlement.	
i		

PAYABLE PENALTY

\$84

Screening Date 27-Jun-2006 Docket No. 2006-0820-DCL-E

Respondent John Nichols dba Best Cleaners

Case ID No. 29968

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

Reg. Ent. Reference No. RN103959417

Media [Statute] Drycleaner

Enf. Coordinator Christina J. Martinez

	tory <i>Site</i> Enhancement (Subtotal 2)	and the second in the C.C.		- 100 m
Component	Number of Enter	Number Here	والمستحيدة والمستحيرة	p Salar
NOVs	enforcement action (number of NOVs meeting criteria)	0	0%	he h
	Other written NOVs	0	0%	
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0 .	0%	
Orders	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%	Adding Adding a state of the st
Judgments and	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)	O Jane	0%	
Consent Decrees	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%	No.
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%	Jus -
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%	The second of the second of
Audits	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%	5(3)
		ter Yes or No		1
	Environmental management systems in place for one year or more Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No No	0%	
Other	Participation in a voluntary pollution reduction program	No	0%	1
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%	
est Violator	Adjustment Percer (Subtotal 3)	rtage (Su	btotal 2)	
No	Adjustment Percen	ntage (Su	btotal 3)	
noliance His	story Person Classification (Subtotal 7)		olosie Pivil	PO are
N/A	✓ Adjustment Percent			
mpliance His	story Summary		laski#	
Compliance	No enhancement due to compliance history.		THE RESERVE OF THE PROPERTY OF	Ì

SALES NO THE SECOND SEC

Page 3 of 4 03/09/07 C:\WINNT\Temp\2006-0820-DCL-E-qcp-JNicohols.qpw Screening Date 27-Jun-2006 Docket No. 2006-0820-DCL-E Respondent John Nichols dba Best Cleaners Policy Revision 2 (September 2002) Case ID No. 29968 PCW Revision May 19, 2005 Reg. Ent. Reference No. RN103959417 Media [Statute] Drycleaner Enf. Coordinator Christina J. Martinez Violation Number 30 Tex. Admin. Code § 337.10(a) Primary Rule Cite(s) Tex. Health & Safety Code § 374.102 Secondary Rule Cite(s) The respondent failed to complete and submit the required registration **Violation Description** form to the TCEQ for a dry cleaning and/or drop station facility. **Base Penalty Environmental, Property and Human Health Matrix** >> Harm Release Moderate OR Actual Potential Percent **Programmatic Matrix** Moderate Minor 10% Percent Matrix Notes 100% of the rule requirement was not met. Adjustment -\$45 \$5 **Base Penalty Subtotal Violation Events** Number of Violation Events 28 daily monthly \$140 Violation Base Penalty mark only one quarterly use a small x semiannual annua sinale event Twenty-eight daily events are recommended from 30 days after the ownership change date of February 27, 2006 to the April 26, 2006 deadline established by the TCEQ letter dated March 24, 2006. Economic Benefit (EB) for this violation **Statutory Limit Test Violation Final Penalty Total** \$105 Estimated EB Amount

This violation Final Assessed Penalty (adjusted for limits)

\$105

\$2

Notes for AVOIDED costs

Approx. Cost of Compliance

Compliance History

Rating: Site Rating:

Custom	er/Respondent/Owner-Operator:	CN603049974	NICH	OLS, JOHN D		Classification:	
Regulated Entity:		RN103959417	BE\$1	CLEANERS	,	Classification:	
ID Numi	ber(s):		·				_
Location	:	1308 W MAIN ST	, HENDI	ERSON, TX, 75652			
TCEQ F	Region:	REGION 05 - TY	LER				_
Date Co	ompliance History Prepared:	March 06, 2007		,			
Agency	Decision Requiring Compliance History:	Enforcement					
Complia	nce Period:	March 06, 2002 t	o March	06, 2007			
TCEQ S	Staff Member to Contact for Additional Info	rmation Regarding t	this Com	pliance History			
Name:	Shontay Wilcher	Ph	ione:	(512) 239-2136	i	·	
		Site C	omplia	nce History Con	ponents		
1. Has t	he site been in existence and/or operation	for the full five year	complia	nce period?	Yes		
2. Has t	here been a (known) change in ownership	of the site during th	ne compl	iance period?	Yes		
3. If Yes	s, who is the current owner?				NICHOLS, J	OHN D	
4. if Ye	s, who was/were the prior owner(s)?				FIVE STAR	LEGACY, INC.	
5. Whe	n did the change(s) in ownership occur?				02/27/2006		
Comp	onents (Multimedia) for the Site:						
A.	Final Enforcement Orders, court judger	ments, and consent	decrees	of the state of Texa	is and the federal	government.	
	N/A						
B.	Any criminal convictions of the state of	Texas and the fede	rai gove	mment.			
	N/A						
C.	Chronic excessive emissions events.					i.	
	N/A						
D.	The approval dates of investigations. (0 1 06/22/2006 (482824)	CCEDS Inv. Track.	No.)			•	
E.	Written notices of violations (NOV). (CO	CEDS Inv. Track. N	0.)				
						P	
F.	Environmental audits. N/A						
G.	Type of environmental management sy	vstems (EMSs).			•		
	N/A	, ,			•		
H.	Voluntary on-site compliance assessment	ent dates.				•	
	N/A						
I.	Participation in a voluntary pollution red	duction program.		<u>.</u>			
	N/A	•					
J.	Early compliance.						
	N/A						
Sites O	utside of Texas	•					
	N/A						

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
JOHN NICHOLS DBA BEST	§	TEXAS COMMISSION ON
CLEANERS	§	
RN103959417	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2006-0820-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 John Nichols dba Best Cleaners ("Mr. Nichols") under the authority of TEX. HEALTH & SAFETY CODE ch. 374 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Nichols appear before the Commission and together stipulate that:

- 1. Mr. Nichols owns and operates a dry cleaning drop station at 1308 West Main Street in Henderson, Rusk 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. Nichols agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Nichols is subject to the Commission's jurisdiction.
- 4. Mr. Nichols received notice of the violations alleged in Section II ("Allegations") on or about June 27, 2006.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Nichols of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of One Hundred Five Dollars (\$105) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Nichols has

paid Eighty-Four Dollars (\$84) of the administrative penalty and Twenty-One Dollars (\$21) is deferred contingent upon Mr. Nichols' 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. Nichols fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Nichols to pay all or part of the deferred penalty.

- 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. Nichols 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. Nichols submitted a completed registration form to the TCEQ on May 31, 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. Nichols 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. Nichols is alleged to have 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 24, 2006.

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III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Nichols pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Nichols' 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: John Nichols dba Best Cleaners, Docket No. 2006-0820-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. The provisions of this Agreed Order shall apply to and be binding upon Mr. Nichols. Mr. Nichols 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.
- 3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Nichols 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.
- 4. 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.
- 5. Under 30 Tex. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Nichols, or three days after the date on which the Commission mails notice of the Order to

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John Nichols dba Best Cleaners DOCKET NO. 2006-0820-DCL-E Page 4

Mr. Nichols, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

 John Nichols dba Best Cleaners DOCKET NO. 2006-0820-DCL-E Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	3/27/07 Date
attached Agreed Order on behalf of the entity, if an	ttached Agreed Order. I am authorized to agree to the y, indicated below my signature, and I do agree to the mowledge that the TCEQ, in accepting payment for the sentation.
 failure to timely pay the penalty amount, may result A negative impact on my compliance histor Greater scrutiny of any permit applications Referral of this case to the Attorney General penalties, and/or attorney fees, or to a collection Increased penalties in any future enforceme 	submitted by me; al's Office for contempt, injunctive relief, additional ction agency; ant actions against me; as Office of any future enforcement actions against law.
Signature	11-9-06 Date
Name (Printed or typed) Authorized Representative of John Nichols dba Best Cleaners	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.

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