

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2006-0654-DCL-E TCEQ ID NO.: RN104959507 CASE NO.: 29614
RESPONDENT NAME: BERTHA VONDERAU DBA WHARTON STEAM LAUNDRY DS

ORDER TYPE:

<input checked="" 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 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 type="checkbox"/> WATER QUALITY	<input checked="" type="checkbox"/> DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: 1107 North Alabama, Wharton, Wharton County

TYPE OF OPERATION: Dry cleaning drop station

SMALL BUSINESS: Yes No

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

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 March 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Mr. Tom Greimel, Enforcement Division, MC 128, (512) 239-5690
TCEQ Regional Contact: Mr. Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106
Respondent: Ms. Bertha Vonderau, Wharton Steam Laundry DS, 1107 North Alabama, Wharton, Texas 77488
Respondent's Attorney: Not represented by counsel.

RESPONDENT'S NAME: BERTHA VONDERAU DBA WHARTON STEAM LAUNDRY DS
DOCKET NO.: 2006-0654-DCL-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up <u>X</u> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: May 22, 2006</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: May 30, 2006 (NOE)</p> <p>Background Facts:</p> <p>An EDPRP was filed on September 27, 2006. A signed Agreed Order was received on November 1, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>DCL:</p> <p>Failed to complete and submit the required registration form to the TCEQ for a drop station facility [30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102(a)].</p>	<p>Total Assessed: \$1,185</p> <p>Total Deferred: \$0 ___ Expedited Settlement ___ Financial Inability to Pay</p> <p>Total Paid/Due to General Revenue: \$185/\$1,000</p> <p>The Respondent has paid \$185 of the administrative penalty. The remaining amount of \$1,000 of the administrative penalty shall be payable in 10 monthly payments of \$100 each.</p> <p>Site Compliance History Classification: ___ High <u>X</u> Avg. ___ Poor</p> <p>Person Compliance History Classification: ___ High <u>X</u> Avg. ___ Poor</p> <p>Major Source: ___ Yes <u>X</u> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action Taken</p> <p>The Executive Director recognizes that the Respondent submitted the required drop station registration form in October 2006 in response to this enforcement action.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	05-Jun-2006	Screening	06-Jun-2006	EPA Due	
	PCW	30-Apr-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Bertha Vonderau dba Wharton Steam Laundry DS		
Reg. Ent. Ref. No.	RN104959507		
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29614	No. of Violations	1
Docket No.	2006-0654-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$50

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

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

Notes

Economic Benefit **Subtotal 6**

Total EB Amounts	<input type="text" value="\$15"/>	0% Enhancement*
Approx. Cost of Compliance	<input type="text" value="\$250"/>	<i>*Capped at the Total EB \$ Amount</i>

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date	06-Jun-2006	Docket No.	2006-0654-DCL-E	PCW
Respondent	Bertha Vonderau dba Wharton Steam Laundry DS	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	29614	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN104959507			
Media [Statute]	Drycleaner			
Enf. Coordinator	Thomas Greimel			
Violation Number	<input type="text" value="1"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 337.10(a)"/>			
Secondary Rule Cite(s)	<input type="text" value="Tex. Health and Safety Code § 374.102(a)"/>			
Violation Description	<input type="text" value="The respondent failed to complete and submit the required registration form to the TCEQ for a drycleaning and/or drop station facility. Specifically, the completed registration form was not submitted by the September 1, 2005 regulatory deadline."/>			

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

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)

Compliance History

Customer/Respondent/Owner-Operator: CN602525180 VONDERAU, BERTHA Classification: AVERAGE Rating: 3.01
Regulated Entity: RN104959507 WHARTON STEAM LAUNDRY DS Classification: AVERAGE BY Site Rating: 3.01
ID Number(s):
Location: 1107 N ALABAMA, WHARTON, TX, 77488 Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: June 06, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 06, 2001 to June 06, 2006

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

Name: Thomas Greimel Phone: (512) 239-5690

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 05/30/2006 (480320)
 - 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 ENFORCEMENT ACTION
AGAINST BERTHA VONDERAU
DBA WHARTON STEAM
LAUNDRY DS;
RN104959507

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-0654-DCL-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bertha Vonderau dba Wharton Steam Laundry DS ("Ms. Vonderau") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 374. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Vonderau, appear before the Commission and together stipulate that:

1. Ms. Vonderau owns and operates a dry cleaning drop station located at 1107 North Alabama, Wharton, Wharton County, Texas (the "Facility"). The Facility is a retail commercial establishment the primary business of which is to act as a collection point for the drop-off and pick-up of garments or other fabrics that are sent to a dry cleaning facility for processing. As such, the Facility is a dry cleaning drop station as defined in TEX. HEALTH & SAFETY CODE § 374.001(6).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 374 and the TCEQ rules.
3. The Commission and Ms. Vonderau agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Vonderau is subject to the Commission's jurisdiction.
4. Ms. Vonderau received notice of the violations alleged in Section II ("Allegations") on or about May 30, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Vonderau 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 (\$1,185.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Vonderau has paid one hundred eighty-five dollars (\$185.00) of the administrative penalty. The remaining amount of one thousand dollars (\$1,000.00) of the administrative penalty shall be payable in 10 monthly payments of one hundred dollars (\$100.00) 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 Ms. Vonderau fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 Ms. Vonderau to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Vonderau to timely and satisfactorily comply with all of 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 Ms. Vonderau 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 Ms. Vonderau submitted the required drop station registration form in October 2006 in response to this enforcement action.
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 Ms. Vonderau 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

Ms. Vonderau is alleged to have violated 30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102(a) by failing to complete and submit the required registration form to the TCEQ for a drop station facility as documented on May 22, 2006.

III. DENIALS

Ms. Vonderau generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Ms. Vonderau pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Vonderau'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Bertha Vonderau dba Wharton Steam Laundry DS, Docket No. 2006-0654-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 Ms. Vonderau. Ms. Vonderau 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 Ms. Vonderau 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

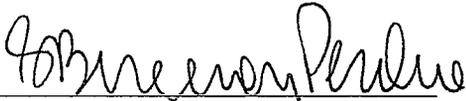
transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Ms. Vonderau, or three days after the date on which the Commission mails notice of the Order to Ms. Vonderau, 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

3/2/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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.



Signature

10-30-2006

Date

BERTHA VONDERAU

Name (Printed or typed)

OWNER

Title

Authorized representative of

Bertha Vonderau

dba Wharton Steam Laundry DS