

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NUMBER: 2006-0871-DCL-E TCEQ ID NO: RN104148283 ENF ID: 29963

RESPONDENT NAME: LIN SONG DBA A PLUS CLEANERS

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
<input type="checkbox"/> SHUTDOWN ORDER	<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	<input type="checkbox"/> ENDANGERMENT 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: 6350 Glenview Drive, Suite 105, North Richland Hills, Tarrant 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 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, MC 128, (512) 239-0577
TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903
Respondent: Mr. Lin Song, Owner, A Plus Cleaners, 2713 Martin Drive, Apt. 1013, Bedford, Texas 76021
Respondent's Attorney: Not represented by counsel.

**RESPONDENT'S NAME: LIN SONG DBA A PLUS CLEANERS
DOCKET NO.: 2006-0871-DCL-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> 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 23, 2006</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: June 21, 2006 (NOE)</p> <p>Background Facts:</p> <p>The EDPRP was filed on October 9, 2006. The Respondent received notice of the EDPRP on October 11, 2006, as evidenced by the signature on the return receipt "green card." The Respondent failed to file an answer 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>DCL:</p> <p>Failed to renew the Facility's registration [30 TEX. ADMIN CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102].</p>	<p>Total Assessed: \$1,185</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$1,185</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>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent renewed the Facility's registration on June 14, 2006.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned	26-Jun-2006	Screening	27-Jun-2006	EPA Due	
	PCW	03-Oct-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Lin Song dba A Plus Cleaners
Reg. Ent. Ref. No.	RN104148283
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29963	No. of Violations	1
Docket No.	2006-0871-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Rajesh Acharya
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** \$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: No adjustment due to compliance history.

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: No Good Faith reduction in Default situation.

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

Total EB Amounts	\$10	*Capped at the Total EB \$ Amount
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 Reduction Adjustment \$0

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

Notes: This is not an expedited case.

PAYABLE PENALTY \$1,185

Screening Date 27-Jun-2006

Docket No. 2006-0871-DCL-E

PCW

Respondent Lin Song dba A Plus Cleaners

Policy Revision 2 (September 2002)

Case ID No. 29963

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104148283

Media [Statute] Drycleaner

Enf. Coordinator Rajesh Acharya

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	<i>Please Enter Yes or No</i>		
	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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date	27-Jun-2006	Docket No.	2006-0871-DCL-E	PCW
Respondent	Lin Song dba A Plus Cleaners	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	29963	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN104148283			
Media [Statute]	Drycleaner			
Enf. Coordinator	Rajesh Acharya			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 337.11(e)			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 374.102			
Violation Description	The respondent failed to renew the facility's registration by completing and submitting 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**

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

>> **Programmatic Matrix**

		Major	Moderate	Minor	
Falsification		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>
Matrix Notes		<input type="text" value="100% of the rule requirement was not met."/>			

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

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	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$10"/>	Violation Final Penalty Total <input type="text" value="\$1,185"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,185"/>	

Economic Benefit Worksheet

Respondent	Lin Song dba A Plus Cleaners
Case ID No.	29963
Reg. Ent. Reference No.	RN104148283
Media [Statute]	Drycleaner
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
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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	14-Jun-2006	0.8	\$10	n/a	\$10
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 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	\$10
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Compliance History

Customer/Respondent/Owner-Operator:	CN602782617	Lin Song	Classification:	Rating:
Regulated Entity:	RN104148283	A PLUS CLEANERS	Classification:	Site Rating:
ID Number(s):				
Location:	6350 GLENVIEW DR STE 105, NORTH RICHLAND HILLS, TX, 76180			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	June 28, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 28, 2001 to June 28, 2006			

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

Name: Rajesh Acharya Phone: (512) 239-0577

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? | Yes |
| 3. If Yes, who is the current owner? | Lin Song |
| 4. If Yes, who was/were the prior owner(s)? | Habib H Charania |
| 5. When did the change(s) in ownership occur? | 01/01/2005 |

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 06/21/2006 (483317)
 - 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
CONCERNING
LIN SONG DBA A PLUS
CLEANERS;
RN104148283

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0871-DCL-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. HEALTH & SAFETY CODE ch. 374 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 Lin Song dba A Plus Cleaners ("Mr. Song").

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

FINDINGS OF FACT

1. Mr. Song owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaning drop station located at 6350 Glenview Drive, Suite 105, North Richland Hills, Tarrant County, Texas (the "Facility").
2. 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).
3. During an investigation conducted on May 23, 2006, a TCEQ Dallas-Fort Worth Regional Office investigator documented that Mr. Song failed to renew the Facility's registration.
4. Mr. Song received notice of the violation on or about June 25, 2006.
5. The Executive Director recognizes that Mr. Song renewed the Facility's registration on June 14, 2006

6. 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 Lin Song dba A Plus Cleaners" (the "EDPRP") in the TCEQ Chief Clerk's office on October 9, 2006.
7. By letter dated October 9, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Song with notice of the EDPRP. According to the return receipt "green card," Mr. Song received notice of the EDPRP on October 11, 2006, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Mr. Song received notice of the EDPRP, provided by the Executive Director. Mr. Song 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. Song is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 374 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Song failed to renew the Facility's registration, in violation of 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102.
3. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Song 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. 8, Mr. Song 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. Song 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. Song for violations of 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 one thousand one hundred eighty-five dollars (\$1,185.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE §§ 7.053 and 7.0525(c).

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. Song is assessed an administrative penalty in the amount of one thousand one hundred eighty-five dollars (\$1,185.00) for violations of the Texas Health & Safety Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. Song'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: Lin Song dba A Plus Cleaners; Docket No. 2006-0871-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 Order shall apply to and be binding upon Mr. Song. Mr. Song is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
3. If Mr. Song 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. Song's failure to comply is not a violation of this Order. Mr. Song shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Song shall notify the Executive Director within seven days after Mr. Song becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. 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. Song shall be made in writing to

the Executive Director. Extensions are not effective until Mr. Song receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. 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. Song if the Executive Director determines that Mr. Song has not complied with one or more of the terms or conditions in this Order.
6. 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.
7. 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.

Lin Song dba A Plus Cleaners
Docket No. 2006-0871-DCL-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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 Lin Song dba A Plus Cleaners” (the “EDPRP”) was filed with the Office of the Chief Clerk on October 9, 2006.

The EDPRP was mailed to Mr. Song at his last known address on October 9, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Song received notice of the EDPRP on October 11, 2006, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Song received notice of the EDPRP. Mr. Song 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 30 day of January, A.D., 2007.



Notary Signature

