

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2003-0413-MWD-E TCEQ ID NOS.: 11260-001 AND RN102080777 CASE NO.: 2625

RESPONDENT NAME: DERDEYN/FORD, INC.

ORDER TYPE:

<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 checked="" type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 509 Tejas Road, Jefferson, Marion County

TYPE OF OPERATION: Waste water treatment plant

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no previous 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 September 11, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Alfred Oloko, Litigation Division, MC R-12, (713) 422-8918; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Elvia Maske, Enforcement Division, Section III, MC 149, (512) 239-0789

TCEQ Regional Contact: Mr. Robert Shirley, Tyler Regional Office, MC R-5, (903) 535-5168

Respondent: Mr. David Derdeyn, President, Derdeyn/Ford, Inc., 509 Tejas Road, Jefferson, TX 75657

Respondent's Attorney: Not represented by counsel.

**RESPONDENT'S NAME: DERDEYN/FORD, INC.
DOCKET NO.: 2003-0413-MWD-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 checked="" 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: April 23, 2002, April 7, 2003, April 9, 2003, June 12, 2003, June 13, 2003, and May 13, 2004</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: (NOV), June 13, 2002.</p> <p>Background Facts: The EDRP in this case was filed on December 28, 2004 and the Respondent filed an Answer on May 16, 2005. The case was referred to SOAH on July 15, 2005 and the preliminary hearing convened on October 27, 2005. The Executive Director filed a Status Report and Procedural Schedule on November 18, 2005. The hearing on the merits convened on March 30, 2006 but was recessed by the ALJ to enable the Respondent who was attending via telephone to attend in person. On April 18, 2006, the hearing on the merits reconvened but was recessed to allow the Respondent to resubmit Financial Inability to Pay documentation and for the parties to explore a final possibility of settlement. On July 5, 2006, the Revenue and Financial Assurance Division made a recommendation that the Respondent was unable to pay the entire recommended penalty of \$41,933. It was recommended that the Respondent pay \$3,600 of the administrative penalty in 36 monthly installments. On July 10, 2006, the Executive Director received a signed Agreed Order together with a check for \$100 for the first installment payment from the Respondent. The Executive Director filed a Motion for Remand on July 10, 2006, and the case was remanded on July 10, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MWD:</p> <p>1) Failed to have a chlorine residual of at least 1.0 milligram per liter (mg/l) at Outfall 001 for the month of April 2003, (the value recorded was 0.0 mg/l), has failed to comply with the permitted discharge limitations as shown in the Effluent Limit Violation Table attached hereto and incorporated herein by reference (Attachment A), and has failed to properly operate and maintain the Facility and systems of treatment, collection, disposal, and control, at all times [30 TEX. ADMIN. CODE § 305.125(5), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 11260-001, Final Effluent Limitation and Monitoring Requirements Nos. 1 and 2, and Operational Requirements (1) and (4)].</p>	<p>Total Assessed: \$41,933</p> <p>Total Deferred: \$38,333</p> <p><input type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid /Due to General Revenue: \$100/\$3,500 The Respondent has paid \$100 of the administrative penalty. The remaining amount of \$3,500 of the administrative penalty shall be payable in 35 monthly payments of \$100 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>** Findings Order Justification: Absence of management practices designed to maintain compliance.</p>	<p>Ordering Provision(s)</p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> 1) Immediately commence operating the Facility under the direct supervision of a properly certified operator. 2) Within 30 days: <ol style="list-style-type: none"> a) Submit a written certification statement demonstrating compliance with Ordering Provision 2.a above. b) Begin to properly operate and maintain the Facility and systems of treatment, collection, disposal, and control at all times. This shall include, but not be limited to, repairing or replacing the air diffuser system in the aeration chamber and the surface skimmer to operate properly. c) Begin reporting in writing, effluent violations which deviated from the permitted effluent limitation by more than 40%, as required by TPDES Permit No. 11260-001, Monitoring and Reporting Requirements No. 7. 3) Within 45 days, submit a written certification statement demonstrating compliance with Ordering Provision No. 2.b.ii and iii. 4) Within 60 days, submit written certification of compliance with the effluent limits of TPDES Permit No. 11260-001.

**RESPONDENT'S NAME: DERDEYN/FORD, INC.
DOCKET NO.: 2003-0413-MWD-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>2) Failed to report monthly effluent monitoring results, failed to submit Discharge Monitoring Reports (DMRs) as required for the months of September, 2001 and March, 2003, and also failed to submit monthly DMRs by the 20th day of each month to the TCEQ for the months from July, 2001 to February, 2003 [30 TEX. ADMIN. CODE §§ 319.1 and 305.125(1), and TPDES Permit No. 11260-001, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failed to report effluent violations which deviated from the permitted effluent limitation by more than 40% for the months of April, May, and October 2002, and February, March, April, and August 2003, to the TCEQ [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 11260-001, Monitoring and Reporting Requirements No. 7].</p> <p>4) Failed to ensure that the Facility was operated by a licensed wastewater operator. Specifically, the operator's class "D" license expired in December, 2002 [30 TEX. ADMIN. CODE §§ 30.350(i), 30.331(b), and 305.125(1) and TPDES Permit No. 11260-001, Other Requirements No. 1].</p> <p>5) Failed to comply with the permitted discharge limitations at Outfall 001 of flow in conduit or through treatment plant of 0.002 million gallons per day (MGD) for August, 2003 [TEX. WATER CODE § 26.121(a) and TPDES Permit No. 11260-001, Final Effluent Limitations and Monitoring Requirements No. 1].</p>		



Policy Revision 2 (09/02)

Penalty Calculation Worksheet (PCW)

PCW Revision 6/12/2003

DATES	
PCW	6-Mar-2006
Screening	28-Jan-2003
Priority Due	28-May-2003
EPA Due	
RESPONDENT INFORMATION	
Respondent	Derdeyn/Ford, Inc.
Respondent/Site ID No(s)	TPDES Permit No. 11260-001; RN102080777
Facility/Site Region	5 - Tyler
Major/Minor Source	Minor
CASE INFORMATION	
Enf./Case ID No(s)	CCEDS Enf. ID No. 2625
Docket No.	2003-0413-MWD-E
Case Priority	3
Enf. Coordinator	Elvia Maske
Media Program(s)	Water Quality
Admin. Penalty \$ Limit	Minimum \$0 Maximum \$10,000
No. Violations	5
Order Type	Findings
EC's Team	Enforcement Team 5

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$37,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Subtotals 2, 3 & 7** \$29,600

Compliance History 80% Enhancement **Subtotal 2** \$29,600

Notes An enhancement is recommended because there are 11 self-reported effluent violations and five NOVs for same or similar violations for this site within the past five years. **+**

Culpability 0% Enhancement **Subtotal 4** \$0

Notes No Select Yes/No
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			
None of the above	X	(mark with small x)	+

Notes The Respondent is not yet in compliance.

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

\$13,358	Total EB Amounts	*Capped at the Total EB \$ Amount	=
\$33,000	Approx. Cost of Compliance		=

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$66,600

OTHER FACTORS AS JUSTICE MAY REQUIRE 37% Reduction **Adjustment** -\$24,667

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)
Notes Recommend reduction in penalty so that the reporting violations are proportional to the effluent violation. **=**

Final Penalty Amount \$41,933

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$41,933

DEFERRAL Deferral 0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)
Notes No deferral is recommended because this is a Findings Order. **=**

PAYABLE PENALTY \$41,933

Screening Date	28-Jan-2003	Docket Number	2003-0413-MWD-E	PCW
Respondent	Derdeyn/Ford, Inc.			Policy Revision 2 (09/02)
Case ID No.	CCEDS Enf. ID No. 2625			PCW Revision 6/12/2003
Respondent/Site ID No.	TPDES Permit No. 11260-001; RN102080777			
Media [Statute]	Water Quality			
Enf. Coordinator	Elvia Maske			
Site Address	Located at 509 Tejas Road, Jefferson, Marion County			

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>)	16	80%
	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 submitted</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) 80%

>> **Repeat Violator (Subtotal 3)**

Select Yes/No **Adjustment Percentage (Subtotal 3) 0%**

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

Select High, Average or Poor **Adjustment Percentage (Subtotal 7) 0%**

Compliance History Summary

Compliance History Notes An enhancement is recommended because there are 11 self-reported effluent violations and five NOV's for same or similar violations for this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 80%

Screening Date	28-Jan-03	Docket Number	2003-0413-MWD-E	PCW
Respondent	Derdeyn/Ford, Inc.		Policy Revision 2 (09/02)	
Case ID No.	CCEDS Enf. ID No. 2625			PCW Revision 6/12/2003
Respondent/Site ID No.	TPDES Permit No. 11260-001; RN102080777			
Media [Statute]	Water Quality			
Enf. Coordinator	Elvia Maske			
Violation Number	1			
Primary Rule Cite	TPDES Permit 11260-001, Final Effluent Limitations and Monitoring Requirements (1) and (2), Operational Requirements (4) and Tex. Water Code § 26.121(a)			
Secondary Cite(s)	TPDES Permit No. 11260-001, Operational Requirements (1) and 30 Tex. Admin. Code § 305.125(5)			
Violation Description	<p>Failure to have a chlorine residual of at least 1.0 mg/l for April 2003 (value of 0.0 recorded) as documented during an investigation conducted on April 7, 2003. Failure to comply with permitted discharge limitations as referenced on attached table at Outfall 001, as documented during a record review conducted on May 13, 2004. Failure to properly operate and maintain the facility, and systems of treatment, collection, disposal, and control, at all times. Specifically, on April 23, 2002, during an investigation it was documented that only half of the air diffuser system was operating and the surface skimmer on the clarifier was not operating properly. On April 7, 2003, during an investigation, it was documented that no aeration was occurring in the aeration basin, the aerators were not in operation.</p>			

Base Penalty \$10,000

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

		Harm			
		Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification				Percent

Matrix Notes

A simplified model was utilized to evaluate the value of biochemical oxygen demand daily average to determine whether the discharged amount of pollutant exceeded the level protective of human health or the environment. The amount discharged at the time of the violations was insignificant and does not exceed the level that was protective of human health or the environment. The TSS and D.O. values were also evaluated and were determined not to have exceeded levels that were protective of human health or the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events	3				
mark only one; use small x	daily				Violation Base Penalty \$3,000
	monthly				
	quarterly				
	semiannual		X		
	annual				
	single event				

Events Notes

Three semiannual events are recommended based on the violation months of April, May, July, August, September, October, and November 2002, and January, February, March, April, and August 2003, to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$3,904

Violation Final Penalty total \$3,400

This Violation Final Assessed Penalty (adjusted for limits) \$3,400

Economic Benefit Worksheet

Respondent: Derdeyn/Ford, Inc.
 ID Number(s): CCEDS Enf. ID No. 2625
 Media [Statute]: Water Quality
 Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$700	23-Apr-2002	1-Jun-2006	4.1	\$10	\$192	\$201
Buildings				0.0	\$0	\$0	\$0
Other (As needed)	\$300	23-Apr-2002	1-Jun-2006	4.1	\$4	\$82	\$86
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

Estimated costs for repairing the air diffuser and surface equipment.

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	\$700	1-Jul-2001	1-Jun-2006	4.9	\$172	\$3,444	\$3,617
Supplies/equip				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

Estimated costs for oversight and sampling which could have reduced or alleviated the exceedence violations.

Approx Cost of Compliance \$1,700

TOTAL \$3,904

Screening Date	28-Jan-03	Docket Number	2003-0413-MWD-E	PCW
Respondent	Derdeyn/Ford, Inc.			Policy Revision 2 (09/02)
Case ID No.	CCEDS Enf. ID No. 2625			PCW Revision 6/12/2003
Respondent/Site ID No.	TPDES Permit No. 11260-001; RN102080777			
Media [Statute]	Water Quality			
Enf. Coordinator	Elvia Maske			
Violation Number	2			
Primary Rule Cite	TPDES Permit 11260-001, Monitoring and Reporting Requirements (1), 30 Tex. Admin. Code § 319.1			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)			
Violation Description	Failure to report monthly effluent monitoring results. The Respondent has not submitted Discharge Monitoring Reports (DMRs) for this facility as required for the months of September 2001 and March 2003, as documented during a record review on June 13, 2003. Failure to submit DMRs by the 20th day of each month to the TCEQ. Specifically, DMRs were submitted late from July 2001 to February 2003, as documented during a record review conducted on June 12, 2003.			

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text"/>
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
OR	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
				Percent 10%
Matrix Notes	Failure to comply with 100% of the rule requirement.			
	Adjustment	-\$9,000		
	Base Penalty Subtotal	\$1,000		

Violation Events				
	Number of Violation Events	21		
<i>mark only one; use small x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
				Violation Base Penalty \$21,000
Events Notes	Twenty one single events are recommended based on documentation of the violations during record reviews conducted on June 12 and 13, 2003.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$2,333	Violation Final Penalty total \$23,800
This Violation Final Assessed Penalty (adjusted for limits) \$23,800	

Economic Benefit Worksheet

Respondent: Derdeyn/Ford, Inc.
 ID Number(s): CCEDS Enf. ID No. 2625
 Media [Statute]: Water Quality
 Violation Number: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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	\$900	1-Jul-2001	19-Dec-2003	2.5	\$111	\$2,222	\$2,333
Supplies/equip				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

Estimated cost to obtain, certify and submit monthly DMRs with representative sample measurements for the facility. Final date is date March 2003 DMR was submitted.

Approx Cost of Compliance \$900

TOTAL \$2,333

Screening Date	28-Jan-03	Docket Number	2003-0413-MWD-E	PCW
Respondent	Derdeyn/Ford, Inc.		Policy Revision 2 (09/02)	
Case ID No.	CCEDS Enf. ID No. 2625		PCW Revision 6/12/2003	
Respondent/Site ID No.	TPDES Permit No. 11260-001; RN102080777			
Media [Statute]	Water Quality			
Enf. Coordinator	Elvia Maske			
Violation Number	3			
Primary Rule Cite	TPDES Permit No. 11260-001, Monitoring and Reporting Requirements (7)			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)			
Violation Description	Failure to report effluent violations which deviated from the permitted effluent limitation by more than 40%.			
			Base Penalty	\$10,000

» Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	Percent
OR	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

		Major	Moderate	Minor	Percent
OR	Falsification	x	<input type="text"/>	<input type="text"/>	10%

Matrix Notes

Failure to comply with 100% of the rule requirement.

Adjustment

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

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

Violation Base Penalty

Events Notes

Seven single events are recommended based on the failure to submit seven exceedence notifications for the months of April, May and October 2002, and February, March, April, and August 2003, as documented during an investigation conducted on April 9, 2003 and record reviews conducted on June 12, 2003 and May 13, 2004.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) <input type="text" value="\$1,996"/>	Violation Final Penalty total <input type="text" value="\$7,933"/>
This Violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$7,933"/>	

Economic Benefit Worksheet

Respondent Derdeyn/Ford, Inc.
 ID Number(s) CCEDS Enf. ID No. 2625
 Media [Statute] Water Quality
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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	\$400	31-Aug-2001	1-Jun-2006	4.8	\$95	\$1,901	\$1,996
Supplies/equip				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

Estimated cost to submit DMR exceedence notifications to the TCEQ.

Approx Cost of Compliance \$400

TOTAL \$1,996

Screening Date	28-Jan-03	Docket Number	2003-0413-MWD-E	PCW
Respondent	Derdeyn/Ford, Inc.		Policy Revision 2 (09/02)	
Case ID No.	CCEDES Enf. ID No. 2625		PCW Revision 6/12/2003	
Respondent/Site ID No.	TPDES Permit No. 11260-001; RN102080777			
Media [Statute]	Water Quality			
Enf. Coordinator	Elvia Maske			
Violation Number	4			
Primary Rule Cite	30 Tex. Admin. Code §§ 30.350(i) and 30.331(b) and TPDES Permit No. 11260-001, Other Requirements (1)			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)			
Violation Description	Failure to ensure that the plant is operated by a licensed wastewater operator. Specifically, the operator's class "D" license expired in December 2002.			
Base Penalty				\$10,000

» 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	
OR	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	By failing to operate the plant under the full-time supervision of a properly certified water works operator, the Respondent has allowed conditions which could expose human health to pollutants which could exceed levels that are protective of human health.				
Adjustment				<input type="text" value="-9,000"/>	
Base Penalty Subtotal				\$1,000	

Violation Events				
Number of Violation Events		<input type="text" value="1"/>		
<i>mark only one; use small x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	x	Violation Base Penalty <input type="text" value="\$1,000"/>	
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Events Notes	One semiannual event is recommended based on documentation of the violation during the investigation conducted on April 9, 2003 until the settlement termination deadline of September 15, 2003 to make the penalty commensurate with the situation.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) <input type="text" value="\$5,125"/>	Violation Final Penalty total <input type="text" value="\$1,133"/>
This Violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,133"/>	

Economic Benefit Worksheet

Respondent Derdeyn/Ford, Inc.
 ID Number(s) CCEDS Enf. ID No. 2625
 Media [Statute] Water Quality
 Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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				0.0	\$0	n/a	\$0
Other (As Needed)	\$30,000	1-Jan-2003	1-Jun-2006	3.4	\$5,125	n/a	\$5,125

Notes for DELAYED costs

Estimated cost to hire and have a licensed wastewater operator operating the plant. Dates are from the date of the investigation to the estimated date of 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/equip				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 \$30,000

TOTAL \$5,125

Screening Date 28-Jan-03 **Docket Number** 2003-0413-MWD-E **PCW**
Respondent Derdeyn/Ford, Inc. **Policy Revision 2 (09/02)**
Case ID No. CCEDS Enf. ID No. 2625 **PCW Revision 6/12/2003**
Respondent/Site ID No. TPDES Permit No. 11260-001; RN102080777
Media [Statute] Water Quality
Enf. Coordinator Elvia Maske
Violation Number 5
Primary Rule Cite TPDES Permit 11260-001, Final Effluent Limitations and Monitoring Requirements (1) and Tex. Water Code § 26.121(a)
Secondary Cite(s)
Violation Description Failure to comply with the permitted discharge limitations at Outfall 001 of flow, in conduit or thru treatment plant of 0.002 million gallons per day (MGD) for 8/03 (reported value of 0.0098 (390% exceedence)) as documented during a record review conducted on May 13, 2004.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	x			Percent 50%
	Potential				

» **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
OR					Percent

Matrix Notes
 A simplified model was utilized to evaluate the value of flow, in conduit or thru treatment plant demand daily average to determine whether the discharged amount of pollutant exceeded the level protective of human health or the environment. The amount discharged at the time of the violation was significant and does exceed the level that was protective of human health or the environment.

Adjustment -\$5,000
Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Events Notes
 One monthly event is recommended based on the violation month of August 2003 to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$0	Violation Final Penalty total \$5,667
This Violation Final Assessed Penalty (adjusted for limits) \$5,667	

Economic Benefit Worksheet

Respondent Derdeyn/Ford, Inc.
ID Number(s) CCEDS Enf. ID No. 2625
Media [Statute] Water Quality
Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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

Economic benefit has been calculated in Violation No. 1.

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/equip				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 \$0

TOTAL \$0

COMPLIANCE HISTORY

Customer/Respondent/Owner-Operator:	Derdeyn/Ford, Inc.	Classification: Average
Regulated Entity/ID Nos.:	RN102684339; CN601362742; TPDES Permit No. 11260-001; EPA ID No. TX0066338; PWS Facility ID No. 1580002	Site Rating: 0.7273
Location [physical address or description of location (street, highway, FM, etc.) including city or nearest city, and county]:	Tejas Village 509 Tejas Road Marion County	Repeat Violator: (y/n) n
TCEQ Region No.	5	
Date Compliance History Prepared:	June 13, 2003	

Agency Decision Requiring Compliance History (mark one):

<input type="checkbox"/>	the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit
<input checked="" type="checkbox"/>	enforcement
<input type="checkbox"/>	the use of announced investigations (Field Ops)
<input type="checkbox"/>	participation in innovative programs

Compliance Period: 6/13/98-6/13/03

TCEQ staff person to contact for additional information regarding this compliance history:

Name: Elvia Maske Phone: 512/239-0789

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
2. Has there been a (known) change in ownership of the site during the compliance period?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
3. If Yes, who is the current owner?	<u>Derdeyn/Ford, Inc.</u>		
4. If Yes, who was/were the prior owner(s)?	<u>Roy Curlee</u>		
5. When did the change(s) in ownership occur?	<u>Permit transferred July 19, 2001.</u>		

Components (multimedia) for the Site:

A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government

1. Effective Date:	NA	Type of Action:	
Violation Citation 1:	NA	Classification:	
Violation Description:	NA		

B. Any criminal convictions of the state of Texas and the federal government.

Conviction Date:	NA
Count 1:	NA

C. Chronic excessive emissions events: None

D. The dates of investigations.

1. 6/11/01
2. 4/23/02
3. 1/3/03
4. 9/22/99
5. 6/2/03
6. 60 months of DMRs

E. Written notices of violation (NOV)

1.	Date:	December 17, 1999	Self-reported?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
	Violation Citation 1:	30 TAC 319.1-11	Classification:			MOD
	Violation Description:	failure to submit MER for 8/99				
2.	Date:	October 29, 1999	Self-reported?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
	Violation Citation 1:	Permit Prov	Classification:			MOD
	Violation Description:	failure to have licensed wastewater operator				
3.	Date:	December 28, 1999	Self-reported?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
	Violation Citation 1:	30 TAC 319.1-11	Classification:			MOD
	Violation Description:	failure to submit MER for 8/98				
4.	Date:	December 14, 1999	Self-reported?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
	Violation Citation 1:	30 TAC 319.1-11	Classification:			MOD
	Violation Description:	failure to submit MER for 7/98				
5.	Date:	February 2000	Self-reported?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
	Violation Citation 1:	30 TAC 305.125(1)	Classification:			MOD
	Violation Description:	effluent violation				
6.	Date:	March 2000	Self-reported?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
	Violation Citation 1:	30 TAC 305.125(1)	Classification:			MOD
	Violation Description:	effluent violation				
7.	Date:	October 2000	Self-reported?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
	Violation Citation 1:	30 TAC 305.125(1)	Classification:			MOD
	Violation Description:	effluent violation				
8.	Date:	September 22, 2000	Self-reported?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
	Violation Citation 1:	30 TAC 319.1-11	Classification:			MOD
	Violation Description:	failure to submit MER for 11/99				
9.	Date:	November 2001	Self-reported?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
	Violation Citation 1:	30 TAC 305.125(1) and TPDES Permit No. 11260-001	Classification:			MOD
	Violation Description:	Effluent Violations				
10.	Date:	December 2001	Self-reported?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
	Violation Citation 1:	30 TAC 305.125(1) and TPDES Permit No. 11260-001	Classification:			MOD
	Violation Description:	Effluent Violations				
11.	Date:	January 2002	Self-reported?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
	Violation Citation 1:	30 TAC 305.125(1) and TPDES Permit No. 11260-001	Classification:			MOD
	Violation Description:	Effluent Violations				
12.	Date:	February 2002	Self-reported?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

- | | | | | | |
|-----|------------------------|---|-----------------|---|------------|
| | Violation Citation 1: | 30 TAC 305.125(1) and
TPDES Permit No. 11260-001 | Classification: | | MOD |
| | Violation Description: | Effluent Violations | | | |
| 13. | Date: | April 2002 | Self-reported? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| | Violation Citation 1: | 30 TAC 305.125(1) and
TPDES Permit No. 11260-001 | Classification: | | MOD |
| | Violation Description: | Effluent Violations | | | |
| 14. | Date: | May 2002 | Self-reported? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| | Violation Citation 1: | 30 TAC 305.125(1) and
TPDES Permit No. 11260-001 | Classification: | | MOD |
| | Violation Description: | Effluent Violations | | | |
| 15. | Date: | July 2002 | Self-reported? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| | Violation Citation 1: | 30 TAC 305.125(1) and
TPDES Permit No. 11260-001 | Classification: | | MOD |
| | Violation Description: | Effluent Violations | | | |
| 16. | Date: | August 2002 | Self-reported? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| | Violation Citation 1: | 30 TAC 305.125(1) and
TPDES Permit No. 11260-001 | Classification: | | MOD |
| | Violation Description: | Effluent Violations | | | |

F. Environmental audits.

1. Notice of Intent Date: NA
 Disclosure Date: NA
 Violation Citation 1: NA
 Violation Description: NA

Classification:

G. Type of environmental management systems (EMSs).
 NA

H. Voluntary on-site compliance assessment dates.
 NA

I. Participation in a voluntary pollution reduction program.
 NA

J. Early compliance.
 NA

Sites Outside of Texas

- State: NA
 Site Name: NA
 Location: NA
 Type of Action: NA
 Effective Date: NA

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DERDEYN/FORD, INC.,
TEXAS POLLUTANT
DISCHARGE ELIMINATION
SYSTEM (TPDES) PERMIT NO.
11260-001;
RN102080777

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2003-0413-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Derdeyn/Ford, Inc. (Derdeyn/Ford) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Derdeyn/Ford presented this agreement to the Commission.

Derdeyn/Ford understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Derdeyn/Ford agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Derdeyn/Ford.

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

FINDINGS OF FACT

1. Derdeyn/Ford owns and operates a 0.002 million gallon per day (MGD) waste water treatment plant located at 509 Tejas Road, Jefferson, Marion 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 water in the state under the Texas Water Code.
3. During investigations conducted on April 23, 2002, and April 7, 2003, and a record review conducted on May 13, 2004, a TCEQ Tyler Regional Office investigator and a TCEQ enforcement coordinator documented that Derdeyn/Ford failed:
 - a. To have a chlorine residual of at least 1.0 milligram per liter (mg/l) at Outfall 001 for the month of April 2003, (the value recorded was 0.0 mg/l);
 - b. To Comply with the permitted discharge limitations as shown in the Effluent Limit Violation Table attached hereto and incorporated herein by reference (Attachment A); and
 - c. To properly operate and maintain the Facility and systems of treatment, collection, disposal, and control, at all times. Specifically, only half of the air diffuser system in the aeration chamber was operating and the surface skimmer on the clarifier was not operating properly and no aeration was occurring in the aeration basin as the aerators were not in operation.
4. During record reviews conducted on June 12 and 13, 2003, a TCEQ enforcement coordinator documented that Derdeyn/Ford failed to report monthly effluent monitoring results. Derdeyn/Ford failed to submit Discharge Monitoring Reports (DMRs) as required for the months of September, 2001 and March, 2003. Derdeyn/Ford also failed to submit monthly DMRs by the 20th day of each month to the TCEQ for the months from July, 2001 to February, 2003.
5. During an investigation conducted on April 9, 2003, and record reviews conducted on June 12, 2003, and May 13, 2004, a TCEQ Tyler Regional Office investigator and a TCEQ enforcement coordinator documented that Derdeyn/Ford failed to report effluent violations which deviated from the permitted effluent limitation by more than 40% for the months of April, May, and October 2002, and February, March, April, and August, 2003, to the TCEQ.
6. During an investigation conducted on April 9, 2003, a TCEQ Tyler Regional Office investigator documented that Derdeyn/Ford failed to ensure that the Facility was operated by a licensed wastewater operator. Specifically, the operator's class "D" license expired in December, 2002.

7. During a record review conducted on May 13, 2004, a TCEQ enforcement coordinator documented that Derdeyn/Ford failed to comply with the permitted discharge limitations at Outfall 001 of flow in conduit or through treatment plant of 0.002 million gallons per day (MGD) for August, 2003. The reported value was 0.0098, a 390% exceedance
8. Derdeyn/Ford received notice of the violations on or about June 18, 2002, and January 3, 2005.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Derdeyn/Ford is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Derdeyn/Ford has failed to have a chlorine residual of at least 1.0 milligram per liter (mg/l) at Outfall 001 for the month of April 2003, (the value recorded was 0.0 mg/l), has failed to comply with the permitted discharge limitations as shown in the Effluent Limit Violation Table attached hereto and incorporated herein by reference (Attachment A), and has failed to properly operate and maintain the Facility and systems of treatment, collection, disposal, and control, at all times, in violation of 30 TEX. ADMIN. CODE § 305.125(5), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 11260-001, Final Effluent Limitation and Monitoring Requirements Nos. 1 and 2, and Operational Requirements (1) and (4).
3. As evidenced by Finding of Fact No. 4, Derdeyn/Ford failed to report monthly effluent monitoring results, failed to submit Discharge Monitoring Reports (DMRs) as required for the months of September, 2001 and March, 2003, and also failed to submit monthly DMRs by the 20th day of each month to the TCEQ for the months from July, 2001 to February, 2003, in violation of 30 TEX. ADMIN. CODE §§ 319.1 and 305.125(1), and TPDES Permit No. 11260-001, Monitoring and Reporting Requirements No. 1
4. As evidenced by Finding of Fact No. 5, Derdeyn/Ford failed to report effluent violations which deviated from the permitted effluent limitation by more than 40% for the months of April, May, and October 2002, and February, March, April, and August, 2003, to the TCEQ, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 11260-001, Monitoring and Reporting Requirements No. 7.
5. As evidenced by Finding of Fact No. 6, Derdeyn/Ford failed to ensure that the Facility was operated by a licensed wastewater operator. Specifically, the operator's class "D" license

expired in December, 2002, in violation of 30 TEX. ADMIN. CODE §§ 30.350(i), 30.331(b), and 305.125(1) and TPDES Permit No. 11260-001, Other Requirements No. 1.

6. As evidenced by Finding of Fact No. 7, Derdeyn/Ford failed to comply with the permitted discharge limitations at Outfall 001 of flow in conduit or through treatment plant of 0.002 million gallons per day (MGD) for August, 2003, in violation of TEX. WATER CODE § 26.121(a) and TPDES Permit No. 11260-001, Final Effluent Limitations and Monitoring Requirements No. 1. The reported value was 0.0098, a 390% exceedance
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Derdeyn/Ford for violations of the Texas Water Code and 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.
8. An administrative penalty in the amount of forty-one thousand nine hundred thirty-three dollars (\$41,933.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Derdeyn/Ford is assessed an administrative penalty in the amount of forty-one thousand nine hundred thirty-three dollars (\$41,933.00) as set forth in Conclusion of Law No. 8 for violations of TCEQ rules and state statutes. The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Derdeyn/Ford and determined that Derdeyn/Ford is unable to pay part of the administrative penalty. Therefore, thirty-eight thousand three hundred thirty-three dollars (\$38,333) of the penalty is deferred contingent upon Derdeyn/Ford'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 Derdeyn/Ford fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Derdeyn/Ford to pay all or part of the deferred penalty.

Derdeyn/Ford has paid one hundred dollars (\$100.00) dollars of the und deferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in thirty-five (35) monthly payments of one hundred dollars (\$100.00) dollars each.

The first 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. If Derdeyn/Ford fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, 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 acceleration of any remaining balance constitutes the failure by Derdeyn/Ford to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Derdeyn/Ford, Inc.; Docket No. 2003-0413-MWD-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. Derdeyn/Ford shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Derdeyn/Ford shall commence operating the Facility under the direct supervision of a properly certified operator.
 - b. Within 30 days after the effective date of this Agreed Order, Derdeyn/Ford shall:
 - i. Submit a written certification statement demonstrating compliance with Ordering Provision 2.a above;
 - ii. Begin to properly operate and maintain the Facility and systems of treatment, collection, disposal, and control at all times. This shall include, but not be limited to, repairing or replacing the air diffuser system in the aeration chamber and the surface skimmer to operate properly; and
 - iii. Begin reporting in writing, effluent violations which deviated from the permitted effluent limitation by more than 40%, as required by TPDES Permit No. 11260-001, Monitoring and Reporting Requirements No. 7. These reports shall be submitted to:

WQ MIS Team, Enforcement Section V
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission On Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

- c. Within 45 days after the effective date of this Agreed Order, Derdeyn/Ford shall submit a written certification statement demonstrating compliance with Ordering Provision No. 2.b.ii and iii.
- d. Within 60 days after the effective date of this Agreed Order, Derdeyn/Ford shall submit written certification of compliance with the effluent limits of TPDES Permit No. 11260-001.
- e. Derdeyn/Ford shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and shall send a copy of the documentation to:

Mr. Noel Luper, Manager
Water Section
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon Derdeyn/Ford. Derdeyn/Ford is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Derdeyn/Ford 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, Derdeyn/Ford failure to comply is not a violation of this Agreed Order. Derdeyn/Ford has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Derdeyn/Ford shall notify the Executive Director within seven days after Derdeyn/Ford 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 Derdeyn/Ford shall be made in writing to the Executive Director. Extensions are not effective until Derdeyn/Ford receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Derdeyn/Ford if the Executive Director determines that Derdeyn/Ford has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against Derdeyn/Ford 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date

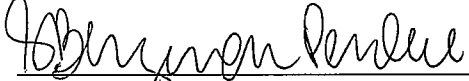
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is the date of hand-delivery of the Order to Derdeyn/Ford, or three days after the date on which the Commission mails notice of the Order to Derdeyn/Ford, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Derdeyn/Ford, Inc. I represent that I am authorized to agree to the attached Agreed Order on behalf of Derdeyn/Ford, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Derdeyn/Ford, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

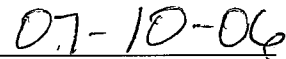
I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- 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.

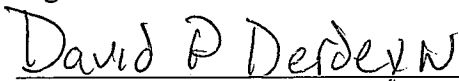
In addition, any falsification of any compliance documents may result in criminal prosecution.



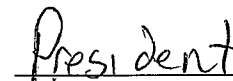
Signature



Date



Name (printed or typed)



Title

Authorized Representative

Derdeyn/Ford, Inc.