

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0848-WOC-E TCEQ ID: RN103856449 CASE NO.: 33626

RESPONDENT NAME: DAVID P. DERDEYN

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 509 Tejas Road, Jefferson, Marion County</p> <p>TYPE OF OPERATION:</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Barham Richard, Litigation Division, MC 175, (512) 239-0107 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Epafanil Villareal, Water Enforcement Division, MC R-13, (210) 403-4033 TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174 Respondent: Mr. David P. Derdeyn, 509 Tejas Road, Jefferson, Texas 75657-3801 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|---|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: March 13, 2007</p> <p>Date of NOE Relating to this Case: March 14, 2007 (NOE)</p> <p>Background Facts:</p> <p>An EDRP was filed on October 15, 2007. The Respondent received notice of the EDRP on October 26, 2007, as evidenced by the signature on the return receipt "green card."</p> <p>The EDFARP was filed on November 27, 2007. The Respondent received notice of the EDFARP on December 14, 2007, as evidenced by the signature on the return "green card."</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>WOC</p> <p>Failed to obtain a valid public water system operator license prior to performing process duties in the production, treatment, and distribution of public drinking water [30 TEX. ADMIN. CODE §§ 30.381(b) and 30.5(a) and TEX. WATER CODE § 37.003].</p> | <p>Total Assessed: \$1,875</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$1,875</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalties but will be required to do so under the terms of the 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>Technical Requirements</p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> 1. Immediately cease operating the facility. 2. Within 15 days, submit written certification and detailed supporting documentation, including photographs, receipts and other records. |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

| | | | | | | |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 21-May-2007 | Screening | 30-May-2007 | EPA Due | |
| | PCW | 30-May-2007 | | | | |

| | |
|--|------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | David P. Derdeyn |
| Reg. Ent. Ref. No. | RN103856449 |
| Facility/Site Region | 5-Tyler |
| Major/Minor Source | Minor |

| | | | | |
|-------------------------|---------------------------|-------------------|---------------------|---------|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 33626 | No. of Violations | 1 | |
| Docket No. | 2007-0848-WOC-E | Order Type | 1660 | |
| Media Program(s) | All Occupational Licenses | Enf. Coordinator | Epifanio Villarreal | |
| Multi-Media | | EC's Team | Enforcement Team 2 | |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum | \$2,500 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,875

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 penalty adjustment based on 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 x) |

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$169 0% Enhancement* Subtotal 6 \$0
Approx. Cost of Compliance \$200 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,875

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 \$1,875

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,875

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 offered due to non-settlement of the field citation.

PAYABLE PENALTY \$1,875

Screening Date 30-May-2007

Docket No. 2007-0848-WOC-E

PCW

Respondent David P. Derdeyn

Policy Revision 2 (September 2002)

Case ID No. 33626

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103856449

Media [Statute] All Occupational Licenses

Enf. Coordinator-Epifanio-Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of.. | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

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 penalty adjustment based on compliance history.

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

Screening Date 30-May-2007

Docket No. 2007-0848-WOC-E

PCW

Respondent David P. Derdeyn

Policy Revision 2 (September 2002)

Case ID No. 33626

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103856449

Media [Statute] All Occupational Licenses

Enf. Coordinator Epifanio Villarreal

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 30.381(b), 30.5(a), and Tex. Water Code § 37.003

Violation Description Failed to obtain a valid public water system operator license prior to performing process duties in the production, treatment, and distribution of public drinking water.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|---|----------------------|----------------------|
| | Major | Moderate | Minor |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Potential | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> |

Percent

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Percent

Matrix Notes

Without a licensed water works operator managing the facility, improper management of the water supply could result in customers of the water supply being exposed to contaminants which would exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

| | | |
|----------------------------|--------------|---|
| mark only one with an x | daily | <input type="text"/> |
| | monthly | <input checked="" type="text" value="x"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |

Violation Base Penalty

Three monthly events are recommended from the date of the investigation, March 13, 2007, to the date of screening, May 30, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent David P. Derdeyn
Case ID No. 33626
Reg. Ent. Reference No. RN103856449
Media All Occupational Licenses
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 |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Avoided Costs | | | | | | | |
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | \$200 | 13-Mar-2007 | 1-Jan-2008 | 0.8 | \$8 | \$161 | \$169 |
| 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

The avoided cost includes the amount to obtain a valid public water system operator license, calculated from the date of the investigation to the estimated date of compliance.

Approx. Cost of Compliance

\$200

TOTAL

\$169

Compliance History

Customer/Respondent/Owner-Operator: CN601362742 DERDEYN, DAVID P Classification: Rating:
Regulated Entity: RN103856449 DERDEYN, DAVID P Classification: Site Rating:
ID Number(s):
Location: 509 TEJAS ROAD, JEFFERSON, TX

TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: May 30, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 30, 2002 to May 30, 2007

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

Name: Epifanio Villarreal Phone: (210) 403-4033

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.)
05/16/2007 (560324)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
DAVID P. DERDEYN;
RN103856449

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-0848-WOC-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. WATER CODE chs. 7 and 37, and 30 TEX. ADMIN. CODE chs. 30 and 70, 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 David P. Derdeyn ("Mr. Derdeyn").

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

FINDINGS OF FACT

1. Mr. Derdeyn operates a public water system located at 509 Tejas Road, Jefferson, Marion County, Texas (the "Facility").
2. During an investigation conducted on March 13, 2007, a TCEQ Tyler Regional Office investigator documented that Mr. Derdeyn failed to obtain a valid public water system operator license prior to performing process duties in the production, treatment, and distribution of public drinking water.
3. Mr. Derdeyn received notice of the violation on or about March 14, 2007.
4. 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 and Requiring Certain Actions of David P. Derdeyn" (the "EDPRP") in the TCEQ Chief Clerk's office on October 15, 2007.
5. By letter dated October 15, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Derdeyn with notice of

the EDPRP. According to the return receipt "green card," Mr. Derdeyn received notice of the EDPRP on October 26, 2007, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Mr. Derdeyn received notice of the EDPRP, provided by the Executive Director. Mr. Derdeyn failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of David P. Derdeyn" (the "EDFARP") in the TCEQ Chief Clerk's office on November 27, 2007.
8. By letter dated November 27, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Derdeyn with notice of the EDFARP. According to the return receipt "green card," Mr. Derdeyn received notice of the EDFARP on December 14, 2007, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Mr. Derdeyn received notice of the EDFARP, provided by the Executive Director. Mr. Derdeyn failed to file an answer to the EDFARP, 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. Derdeyn is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, and 30 TEX. ADMIN. CODE chs. 30 and 70.
2. As evidenced by Finding of Fact No. 3, Mr. Derdeyn failed to obtain a valid public water system operator license prior to performing process duties in the production, treatment, and distribution of public drinking water, in violation of 30 TEX. ADMIN. CODE § 30.381(b) and 30.5(a), and TEX. WATER CODE § 37.003.
3. As evidenced by Finding of Fact Nos. 4 and 5, the Executive Director timely served Mr. Derdeyn 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. 6, Mr. Derdeyn 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. Derdeyn and assess the penalty recommended by the Executive Director.

5. As evidenced by Finding of Fact Nos. 4 and 5, the Executive Director timely served Mr. Derdeyn with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 6, Mr. Derdeyn failed to file a timely answer to the EDFARP, 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. Derdeyn and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Derdeyn for violations of the Texas Water 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 one thousand eight hundred seventy-five dollars (\$1,875.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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. Derdeyn is assessed an administrative penalty in the amount of one thousand eight hundred seventy-five dollars (\$1,875.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. Derdeyn'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: David P. Derdeyn; Docket No. 2007-0848-WOC-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. Mr. Derdeyn shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Mr. Derdeyn shall cease operating the Facility; and
 - b. Within 15 days after the effective date of this Order, Mr. Derdeyn shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Derdeyn shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a.:

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

with a copy to:

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

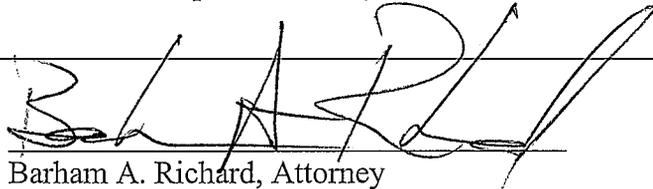
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Derdeyn. Mr. Derdeyn is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Mr. Derdeyn 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. Derdeyn's failure to comply is not a violation of this Order. Mr. Derdeyn shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Derdeyn shall notify the Executive Director within seven days after Mr. Derdeyn becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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. Derdeyn shall be made in writing to the Executive Director. Extensions are not effective until Mr. Derdeyn receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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. Derdeyn if the Executive Director determines that Mr. Derdeyn has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

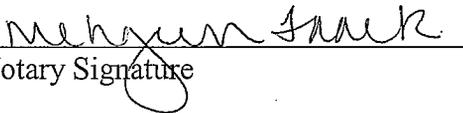
More than 20 days have elapsed since Mr. Derdeyn received notice of the EDFARP. Mr. Derdeyn failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”



Barham A. Richard, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Barham A. Richard, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 14th day of JANUARY, A.D., 2008.



Notary Signature