

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-0463-AIR-E TCEQ ID: RN104384649 CASE NO.: 24907**  
**RESPONDENT NAME: JOSEPH YARBROUGH**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input checked="" 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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1425 Canyon Road, Graham, Young County</p> <p><b>TYPE OF OPERATION:</b> residential property</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There has been one complaint filed.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter. A complaint has been received, but the complainant has not indicated that he wishes to protest this action or speak at agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Laurencia Fasoyiro, Litigation Division, MC 175 , (713) 422-8914  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Air Enforcement Division, MC R-13, (210) 403-4012  <b>TCEQ Regional Contact:</b> Mr. Mike Burch, Abilene Regional Office, MC R-3, (325) 698-6125  <b>Respondent:</b> Mr. Joseph Yarbrough, Owner, 1711 Family Lane, Graham, Texas 76450-4631  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b>                      January 18, 2005</p> <p><b>Dates of Investigation Relating to this Case:</b>                      January 26, 2005</p> <p><b>Date of NOE Relating to this Case:</b>                      February 4, 2005</p> <p><b>Background Facts:</b></p> <p>An EDPRP was filed and mailed to the Respondent on August 2, 2005. The Respondent received notice of the EDPRP, as evidenced by the signature on the "green card," on August 10, 2005. The Respondent failed to file an answer to the EDPRP or request a hearing. An EDFARP was filed and mailed to the Respondent on March 19, 2007, and June 6, 2007, but were both returned by the United States Postal Service with the stamp "not deliverable as addressed." The TCEQ regional office investigator obtained a new mailing address for the Respondent. Subsequently, the EDFARP was filed and mailed on October 2, 2007. The United States Postal Service returned the wrapper sent by the certified mail as unclaimed. The first class mail has not been returned, indicating that Respondent received notice of the EDFARP. The Respondent has not filed an answer to the EDFARP or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>AIR</b></p> <p>Failed to comply with the general outdoor burning prohibitions by burning metal panels, metal siding, couch springs, a television picture tube, wire, metal screens, pipes and other metal objects at the Site [30 TEX. ADMIN CODE § 111.201 and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$1,050</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$1,050</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><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b>                      September 1, 2002</p>	<p><b>Ordering Provisions</b></p> <ol style="list-style-type: none"> <li>1. The Respondent shall immediately cease all outdoor burning.</li> <li>2. Within 60 days, remove all waste from the property and properly dispose of the waste at a permitted landfill.</li> <li>3. Within 75 days, submit written certification of compliance with Ordering Provisions 1 and 2.</li> </ol>

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005



<b>DATES</b>	Assigned 14-Feb-2005	PCW 01-Jun-2005	Screening 01-Mar-2005	EPA Due	
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<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent Joseph Yarbrough	
Reg. Ent. Ref. No. RN104384649	
Facility/Site Region 3-Abilene	Major/Minor Source Minor Source

<b>CASE INFORMATION</b>	
Enf./Case ID No. 24907	No. of Violations 1
Docket No. 2005-0463-AIR-E	Order Type 1660
Media Program(s) Air Quality	Enf. Coordinator Rebecca Clausewitz
Multi-Media	EC's Team Enforcement Team 2
Admin. Penalty \$ Limit Minimum \$0	Maximum \$10,000

### Penalty Calculation Section

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

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 5% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No  0% Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply** 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with a small x)

Notes

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

Total EB Amounts <input type="text" value="\$17"/>	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance <input type="text" value="\$400"/>	

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

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

Notes

Final Penalty Amount

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

**Screening Date** 01-Mar-2005      **Docket No.** 2005-0463-AIR-E      **PCW**  
**Respondent** Joseph Yarbrough      *Policy Revision 2 (September 2002)*  
**Case ID No.** 24907      *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN104384649  
**Media [Statute]** Air Quality  
**Enf. Coordinator** Rebecca Clausewitz

**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> )	1	5%
	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</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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

**Total Adjustment Percentage (Subtotals 2, 3, & 7)**

**Screening Date** 01-Mar-2005 **Docket No.** 2005-0463-AIR-E **PCW**  
**Respondent** Joseph Yarbrough *Policy Revision 2 (September 2002)*  
**Case ID No.** 24907 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN104384649  
**Media [Statute]** Air Quality  
**Enf. Coordinator** Rebecca Clausewitz  
**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**   
**Violation Description**

**Base Penalty**

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent <input type="text" value="10%"/>
	Potential				

>> **Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

**Violation Base Penalty**

**Economic Benefit (EB) for this violation**

**Estimated EB Amount**

**Statutory Limit Test**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

Respondent Joseph Yarbrough  
 Case ID No. 24907  
 Reg. Ent. Reference No. RN104384649  
 Media [Statute] Air Quality  
 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
<b>Delayed Costs</b>							
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)	\$400	26-Jan-2005	07-Dec-2005	0.9	\$17	n/a	\$17

Notes for DELAYED costs: Estimated cost to properly dispose of solid waste. Date required is the date of the investigation. Final date is 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/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 \$400

**TOTAL** \$17

# Compliance History

Customer/Respondent/Owner-Operator:  
CN602696213 YARBROUGH, JOSEPH Classification: AVERAGE Rating: 3.010

Regulated Entity:  
RN104384649 YARBROUGH, JOSEPH Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s): None

Location: 1425 CANYON RD, GRAHAM, TX, 76450 Rating Date: 9/1/04 Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: March 29, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 17, 2000 to March 17, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Kent Heath Phone: (512) 239-4575

## 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? 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.)

2 01/05/2005 (337489)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/25/2004 (271418)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201

Description: Failure to comply with the general prohibition on outdoor burning within the State of Texas as required by 30 TAC §111.201.

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  
JOSEPH YARBROUGH,  
RN104384649

§  
§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER DOCKET NO. 2005-0463-AIR-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, 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 Joseph Yarbrough ("Mr. Yarbrough").

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

### FINDINGS OF FACT

1. Mr. Yarbrough owns residential property located at 1425 Canyon Road, Graham, Young County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection conducted on January 26, 2005, a TCEQ Abilene Regional Office investigator documented that Mr. Yarbrough failed to comply with the general outdoor burning prohibitions by burning metal panels, metal siding, couch springs, a television picture tube, wire, metal screens, pipes and other metal objects at the Site.
4. Mr. Yarbrough received notice of the violation on or about February 9, 2005.
5. 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 Joseph Yarbrough" (the "EDPRP") in the TCEQ Chief Clerk's office on August 2, 2005.

6. By letter dated August 2, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Yarbrough with notice of the EDPRP. According to the return receipt "green card", Mr. Yarbrough received notice of the EDPRP on August 10, 2005, as evidenced by the signature on the card.
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 Joseph Yarbrough" (the "EDFARP") in the TCEQ Chief Clerk's office on October 2, 2007.
8. By letter dated October 2, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Yarbrough with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Yarbrough received notice of the EDFARP.
9. More than 20 days have elapsed since Mr. Yarbrough received notice of the EDPRP and the EDFARP, provided by the Executive Director. Mr. Yarbrough failed to file an answer to the EDPRP and 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. Yarbrough is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Yarbrough failed to comply with the general outdoor burning prohibitions by burning metal panels, metal siding, couch springs, a television picture tube, wire, metal screens, pipes and other metal objects at the Site, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b):
3. As evidenced by Finding of Fact Nos. 5, 6, 7 and 8, the Executive Director has timely served Mr. Yarbrough with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 9, Mr. Yarbrough has failed to file a timely answer to the EDPRP and 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. Yarbrough 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. Yarbrough 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.
6. An administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
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. Yarbrough is assessed an administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) for violations of TEX. HEALTH & SAFETY CODE ch. 382 and rules of the TCEQ. The payment of this administrative penalty and Mr. Yarbrough'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: Joseph Yarbrough; Docket No. 2005-0463-AIR-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. Yarbrough shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, cease all outdoor burning, in accordance with 30 TEX. ADMIN. CODE § 111.201;
- b. Within 60 days after the effective date of this Order, remove all waste from the property and properly dispose of the waste at a permitted landfill; and
- c. Within 75 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b.

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."

The certification shall be submitted to:

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

with a copy to:

Air Section Manager  
Texas Commission on Environmental Quality  
Abilene Regional Office  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

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. Yarbrough. Mr. Yarbrough is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Mr. Yarbrough 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. Yarbrough's failure to comply is not a violation of this Order. Mr. Yarbrough shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Yarbrough shall notify the Executive Director within seven days after Mr. Yarbrough 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. Yarbrough shall be made in writing to the Executive Director. Extensions are not effective until Mr. Yarbrough 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. Yarbrough if the Executive Director determines that Mr. Yarbrough 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

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For the Commission

