

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0756-MLM-E TCEQ ID: RN103955639 CASE NO.: 33480

RESPONDENT NAME: RICHARD K. SONG DBA KS CLEANERS

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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" 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 checked="" type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 101 East Southwest Parkway, Suite 101, Lewisville, Denton County

TYPE OF OPERATION: Dry cleaning facility

SMALL BUSINESS: Yes No

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

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 28, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Richard K. Song, Owner, KS Cleaners, 101 E. Southwest Parkway, Ste. 101, Lewisville, Texas 75067

Respondent's Attorney: Not represented by counsel on this enforcement matter.

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: N/A</p> <p>Dates of Investigation Relating to this Case: January 30, 2007</p> <p>Date of NOE Relating to this Case: March 28, 2007 (NOE)</p> <p>Background Facts:</p> <p>The EDPRP was filed on November 13, 2007 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Respondent has failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>DCL:</p> <ol style="list-style-type: none"> Failed to obtain a current dry cleaning facility registration certificate [30 TEX. ADMIN. CODE § 337.11(e), and TEX. HEALTH & SAFETY CODE § 374.102(e)]. Failed to install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning containment [30 TEX. ADMIN. CODE § 337.20(c)(3)(A)]. Failed to keep a weekly inspection log for each secondary containment structure [30 TEX. ADMIN. CODE § 337.20(e)(6)]. Failed to prevent the unauthorized discharge of municipal hazardous waste [30 TEX. ADMIN. CODE § 335.4]. 	<p>Total Assessed: \$7,650</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$7,650</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <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>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Begin conducting weekly inspections of the secondary containment structure associated with the dry cleaning machine, and maintain an inspection log; and Begin maintaining the required documentation regarding the quantity of hazardous waste generated and shipped for disposal each calendar year. Within 15 days: <ol style="list-style-type: none"> Complete and submit the required dry cleaner registration form for the Facility. Submit payment for all outstanding fees, including any associated penalties and interest. Within 30 days, install appropriate secondary containment around the dry cleaning solvent-contaminated waste accumulation area. Within 45 days, submit to the Executive Director for approval an Affected Property Assessment Report ("APAR") for the tetrachloroethylene (perchloroethylene)-contaminated media. Within 60 days, submit written certification demonstrating compliance.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to provide documentation concerning the quantity of waste generated and quantity of waste shipped off-site for disposal each calendar year [30 TEX. ADMIN. CODE § 335.9(a)(1)].</p> <p>6. Failed to pay outstanding dry cleaner fees for TCEQ Financial Account No. 24001607 for fiscal years 2005 and 2006 [30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

DATES

Assigned PCW	2-Apr-2007	Screening	11-May-2007	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Richard K. Song dba.KS Cleaners		
Reg. Ent. Ref. No.	RN103955639		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33480	No. of Violations	2
Docket No.	2007-0756-MLM-E	Order Type	1660
Media Program(s)	Dry Cleaner	Enf. Coordinator	Michael Meyer
Multi-Media	Industrial and Hazardous Waste	EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$50

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% 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		
Ordinary		
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes:

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

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 0% 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 11-May-2007

Docket No. 2007-0756-MLM-E

PGW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 2 (September 2002)

Case ID No: 33480

PGW Revision January 9, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Dry Cleaner

Enf. Coordinator Michael Meyer

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 judgments 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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent has not received any NOVs or Orders for this site in the past five years.

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

Screening Date 11-May-2007

Docket No. 2007-0756-MLM-E

PCW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 7 (September 2006)

Case ID No. 33480

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Dry Cleaner

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 337.11(e) and Tex. Health & Safety Code § 374.102(e)

Violation Description Failed to obtain a current dry cleaning facility registration certificate, as documented during an investigation conducted on January 30, 2007. Specifically, the previous registration expired on December 31, 2006, and had not been renewed at the time of the investigation.

Base Penalty \$50

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$45

\$5

Violation Events

Number of Violation Events 30

30 Number of violation days

mark only one with an x

daily	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$150

Thirty daily events are recommended from the December 31, 2006 expiration date of the previous registration to the January 30, 2007 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$150

This violation Final Assessed Penalty (adjusted for limits) \$150

Economic Benefit Worksheet

Respondent Richard K. Song dba KS Cleaners
 Case ID No. 33480
 Reg. Ent. Reference No. RN103955639
 Media Dry Cleaner
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 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	\$250	30-Jan-2007	13-Dec-2007	0.9	\$11	n/a	\$11
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to register a dry cleaning or drop station facility annually. The date required is the investigation date and the final date is the expected date of compliance.

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				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$11

Screening Date 11-May-2007

Docket No. 2007-0756-MLM-E

PCW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 2 (September 2002)

Case ID No. 33480

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Dry Cleaner

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 337.14(c) and Tex. Water Code § 5.702

Violation Description Failed to pay outstanding dry cleaner fees for TCEQ Financial Account No. 24001607 for fiscal years 2005 and 2006, as documented during a record review conducted May 14, 2007.

Base Penalty \$50

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes

No penalty is calculated for this violation.

Adjustment \$50

\$0

Violation Events

Number of Violation Events [] Number of violation days []

- daily []
monthly []
quarterly []
semiannual []
annual []
single event []

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Richard K. Song dba KS Cleaners
 Case ID No. 33480
 Reg. Ent. Reference No. RN103955639
 Media Dry Cleaner
 Violation No. 2

Percent Interest: .50
 Years of Depreciation: 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

N/A

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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES Assigned
 PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No.	<input type="text" value="33480"/>	No. of Violations	<input type="text" value="2"/>
Docket No.	<input type="text" value="2007-0756-MLM-E"/>	Order Type	<input type="text" value="1660"/>
Media Program(s)	<input type="text" value="Dry Cleaner"/>	Enf. Coordinator	<input type="text" value="Michael Meyer"/>
Multi-Media	<input type="text" value="Industrial and Hazardous Waste"/>	EC's Team	<input type="text" value="EnforcementTeam 7"/>
Admin. Penalty \$	Limit Minimum <input type="text" value="\$0"/> Maximum <input type="text" value="\$5,000"/>		

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 Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

	Before-NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Total EB Amounts Subtotal 6
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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 11-May-2007

Docket No. 2007-0756-MLM-E

PCW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 2 (September 2002)

Case ID No: 33480

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Dry Cleaner

Enf. Coordinator Michael Meyer

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 judgments 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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent has not received any NOVs or Orders for this site in the past five years.

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

Screening Date 11-May-2007

Docket No. 2007-0756-MLM-E

PCW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 2 September 2002

Case ID No. 33480

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Dry Cleaner

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 337.20(e)(3)(A)

Violation Description

Failed to install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning containment, as documented during an investigation conducted on January 30, 2007. Specifically, the dry cleaning machine was equipped with secondary containment but the dry cleaning solvent-contaminated waste accumulation area was not equipped with secondary containment.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 2

101 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

Two quarterly events are recommended from the January 30, 2007 investigation date to the May 11, 2007 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount \$64

Statutory Limit Test

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Richard K. Song dba KS Cleaners

Case ID No. 33480

Reg. Ent. Reference No. RN103955639

Media Dry Cleaner

Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment	\$1,000	30-Jan-2007	28-Dec-2007	0.9	\$3	\$61	\$64
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	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost to equip the dry cleaning solvent-contaminated waste accumulation area with secondary containment, from the investigation date 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/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

\$1,000

TOTAL

\$64

Screening Date 11-May-2007

Docket No. 2007-0756-MLM-E

PCW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 2 (September 2002)

Case ID No. 33480

PCW Revision January 8, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Dry Cleaner

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 337.20(e)(6)

Violation Description Failed to keep a weekly inspection log for each secondary containment structure, as documented during an investigation conducted on January 30, 2007. Specifically, at the time of the investigation, the Respondent could not provide a copy of the weekly inspection log for the secondary containment around each dry cleaning unit.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1

101 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount \$8

Statutory Limit Test

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Richard K. Song dba KS Cleaners
 Case ID No. 33480
 Reg. Ent. Reference No. RN103955639
 Média Dry Cleaner
 Violation No. 2

Percent Interest: 5.0
 Years of Depreciation: 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	\$200	30-Jan-2007	28-Nov-2007	0.8	\$8	n/a	\$8
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 cost to maintain a weekly log for each secondary containment structure, from the investigation date 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/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: \$200 TOTAL: \$8



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

DATES Assigned Screening EPA Due

 PCW

RESPONDENT/FACILITY INFORMATION

Respondent

 Reg. Ent. Ref. No.

 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations

 Docket No. Order Type

 Media Program(s) Enf. Coordinator

 Multi-Media EC's Team

 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Subtotal 5

Before NOV NOV to EDRP/Settlement Offer

 Extraordinary

 Ordinary

 N/A (mark with x)

Notes

Total EB Amounts Subtotal 6

 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 11-May-2007

Docket No. 2007-0756-MLM-E

PCW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 7 (September 2002)

Case ID No. 33480

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent has not received any NOVs or Orders for this site in the past five years.

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

Screening Date 11-May-2007
 Respondent Richard K. Song dba KS Cleaners
 Case ID No. 33480
 Reg. Ent. Reference No. RN103955639
 Media [Statute] Industrial and Hazardous Waste
 Enf. Coordinator Michael Meyer

Docket No. 2007-0756-MLM-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision January 9, 2007

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Human health or the environment has been exposed to significant amounts pollutants which did not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two quarterly events are recommended from the January 30, 2007 investigation date to the May 11, 2007 screening date.

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 Richard K. Song dba KS Cleaners
 Case ID No. 33480
 Reg. Ent. Reference No. RN103955639
 Media Industrial and Hazardous Waste
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 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	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal	\$5,000	30-Jan-2007	11-Jan-2008	0.9	\$237	\$0	\$237
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs: Estimated cost to investigate and remediate the discharge of municipal hazardous waste, from the investigation date 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/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: \$5,000 TOTAL: \$237

Screening Date 11-May-2007

Docket No. 2007-0756-MLM-E

PCW

Respondent Richard K. Song dba KS Cleaners

Policy Revision 2 (September 2002)

Case ID No. 33480

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103955639

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(1)

Violation Description Failed to provide documentation concerning the quantity of waste generated and quantity of waste shipped off-site for disposal each calendar year, as documented during an investigation conducted on January 30, 2007. Specifically, the Respondent could not provide any documentation regarding the quantity of waste generated and shipped off-site for disposal, including the name, address, and location of each off-site facility, as well as the transporter receiving the shipments.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 101

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: Richard K. Song dba KS Cleaners
 Case ID No. 33480
 Reg. Ent. Reference No. RN103955639
 Media Industrial and Hazardous Waste
 Violation No. 2

Percent Interest: 5.0
 Years of Depreciation: 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	\$250	30-Jan-2007	28-Nov-2007	0.8	\$10	n/a	\$10
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 cost to keep proper documentation for wastes generated and shipped off-site, including the name, address, and location of each off-site facility, as well as the transporter receiving shipments, from the investigation date 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/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: \$250 TOTAL: \$10

Compliance History

Customer/Respondent/Owner-Operator: CN603179854 SONG, RICHARD K Classification: AVERAGE Rating: 3.01
Regulated Entity: RN103955639 KS CLEANERS Classification: AVERAGE BY Site Rating: 3.01
DEFAULT
ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 77729
GENERATION (SWR)
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988000188
GENERATION
Location: 101 E SOUTHWEST PKWY STE 101, LEWISVILLE, TX, Rating Date: 9/1/2006 Repeat Violator: NO
75067
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 11, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 11, 2002 to May 11, 2007

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

Name: Alison Echlin Phone: 512-239-3308

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 08/14/2006 (487443)
N/A
2 03/28/2007 (518120)
 - 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
RICHARD K. SONG
DBA KS CLEANERS;
RN103955639

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-0756-MLM-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. 5, 7 and 26, TEX. HEALTH & SAFETY CODE chs. 361 and 374, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Richard K. Song dba KS Cleaners ("Mr. Song").

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

FINDINGS OF FACT

1. Mr. Song owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaning facility located at 101 East Southwest Parkway, Suite 101, Lewisville, Denton County, Texas (the "Facility").
2. The Facility is a retail commercial establishment that operates or has operated, in whole or in part, for the purpose of cleaning garments or other fabrics using a process that involves any use of dry cleaning solvents. As such, the Facility is a dry cleaning facility as defined in TEX. HEALTH & SAFETY CODE § 374.001(7). The Facility involves the management and/or the disposal of hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on January 30, 2007, a TCEQ Dallas-Fort Worth Regional Office investigator documented that Mr. Song:
 - a. Failed to obtain a current dry cleaning facility registration certificate. Specifically, the previous registration expired on December 31, 2006, and had not been renewed at the time of the investigation;

- b. Failed to install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning containment. Specifically, the dry cleaning machine was equipped with secondary containment, but the dry cleaning solvent-contaminated waste accumulation area was not equipped with secondary containment;
 - c. Failed to keep a weekly inspection log for each secondary containment structure. Specifically, at the time of the investigation, Mr. Song could not provide a copy of the weekly inspection log for the secondary containment around each dry cleaning unit;
 - d. Failed to prevent the unauthorized discharge of municipal hazardous waste. Specifically, there was a tetrachloroethylene (perchloroethylene)-contaminated unauthorized waste discharge which had migrated outside of the building and into the environment; and
 - e. Failed to provide documentation concerning the quantity of waste generated and quantity of waste shipped off-site for disposal each calendar year. Specifically, Mr. Song could not provide any documentation regarding the quantity of waste generated and shipped off-site for disposal, including the name, address, and location of each off-site facility, as well as the transporter receiving the shipments.
4. During a record review conducted on May 14, 2007, a TCEQ Central Office investigator documented that Mr. Song failed to pay outstanding dry cleaner fees for TCEQ Financial Account No. 24001607 for fiscal years 2005 and 2006.
 5. Mr. Song received notice of the violations on or about April 4, 2007.
 6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Richard K. Song dba KS Cleaners" (the "EDPRP") in the TCEQ Chief Clerk's office on November 13, 2007.
 7. By letter dated November 13, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Song with notice of the EDPRP. 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. Song received notice of the EDPRP.

8. More than 20 days have elapsed since Mr. Song received notice of the EDPRP, provided by the Executive Director. Mr. Song failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Song is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 26, TEX. HEALTH & SAFETY CODE chs. 361 and 374, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Song failed to obtain a current dry cleaning facility registration certificate, in violation of 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102(e).
3. As evidenced by Finding of Fact No. 3.b., Mr. Song failed to install a dike or other secondary containment structure around each dry cleaning unit and around each storage area for dry cleaning solvents, dry cleaning waste, or dry cleaning containment, in violation of 30 TEX. ADMIN. CODE § 337.20(e)(3)(A).
4. As evidenced by Finding of Fact No. 3.c., Mr. Song failed to keep a weekly inspection log for each secondary containment structure, in violation of 30 TEX. ADMIN. CODE § 337.20(e)(6).
5. As evidenced by Finding of Fact No. 3.d., Mr. Song failed to prevent the unauthorized discharge of municipal hazardous waste, in violation of 30 TEX. ADMIN. CODE § 335.4.
6. As evidenced by Finding of Fact No. 3.e., Mr. Song failed to provide documentation concerning the quantity of waste generated and quantity of waste shipped off-site for disposal each calendar year, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1).
7. As evidenced by Finding of Fact No. 4, Mr. Song failed to pay outstanding dry cleaner fees for TCEQ Financial Account No. 24001607 for fiscal years 2005 and 2006, in violation of 30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702.
8. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Song with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
9. As evidenced by Finding of Fact No. 8, Mr. Song failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission

may enter a Default Order against Mr. Song and assess the penalty recommended by the Executive Director.

10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Song for violations of the Texas Water Code and the Texas Health & 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.
11. An administrative penalty in the amount of seven thousand six hundred fifty dollars (\$7,650.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE §§ 7.053 and 7.0525(c).
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Song is assessed an administrative penalty in the amount of seven thousand six hundred fifty dollars (\$7,650.00) for violations of the Texas Water Code, the Texas Health & Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Song's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Richard K. Song dba KS Cleaners; Docket No. 2007-0756-MLM-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. Song shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, Mr. Song shall:
- i. Begin conducting weekly inspections of the secondary containment structure associated with the dry cleaning machine, and maintain an inspection log; and
 - ii. Begin maintaining the required documentation regarding the quantity of hazardous waste generated and shipped for disposal each calendar year.
- b. Within 15 days after the effective date of this Order, Mr. Song shall:

- i. Complete and submit the required dry cleaner registration form for the Facility, in accordance with 30 TEX. ADMIN. CODE ch. 337 to:

Dry Cleaning Registration Team
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087,

and;

- ii. Submit payment for all outstanding fees, including any associated penalties and interest, and with the notation, "Richard K. Song dba KS Cleaners, Account No. 24001607", 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

- c. Within 30 days after the effective date of this Order, Mr. Song shall install appropriate secondary containment around the dry cleaning solvent-contaminated waste accumulation area.
- d. Within 45 days after the effective date of this Order, Mr. Song shall submit to the Executive Director for approval an Affected Property Assessment Report ("APAR") for the tetrachloroethylene (perchloroethylene)-contaminated media, pursuant to 30 TEX. ADMIN. CODE § 350.91. If response actions are necessary pursuant to the APAR, Mr. Song shall comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include: plans, reports, and notices under Subchapter E; financial assurance; and Institutional Controls under Subchapter F.

- e. Within 60 days after the effective date of this Order, Mr. Song shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provisions nos. 1 through 2.d. 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. Song shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. Song. Mr. Song is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Mr. Song fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Song's failure to comply is not a violation of this Order. Mr. Song

shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Song shall notify the Executive Director within seven days after Mr. Song becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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. Song shall be made in writing to the Executive Director. Extensions are not effective until Mr. Song receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
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. Song if the Executive Director determines that Mr. Song 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.

Richard K. Song
Docket No. 2007-0756-MLM
Page 8

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LENA ROBERTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Lena Roberts. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Richard K. Song dba KS Cleaners" (the "EDPRP") was filed with the Office of the Chief Clerk on November 13, 2007.

The EDPRP was mailed to Mr. Song at his last known address on November 13, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. 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. Song received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

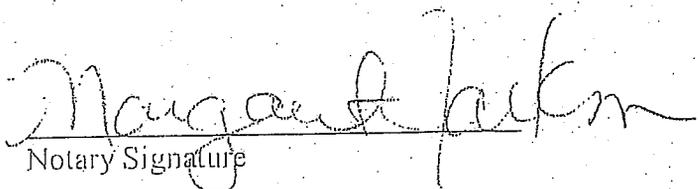


Lena Roberts, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 27th day of December, A.D., 2007.





Notary Signature