

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2006-1316-DCL-E TCEQ ID: RN104086384 CASE NO.: 30782  
RESPONDENT NAME: FAIRMONT CLEANERS, INC. DBA FAIRMONT CLEANERS**

<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 type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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:** 4850 Fairmont Parkway, Pasadena, Harris County

**TYPE OF OPERATION:** Dry cleaning drop station

**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 February 23, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4422

**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Hanh Van Dinh, President, Fairmont Cleaners, Inc., 4803 Preston Trail Lane, Pasadena, Texas 77505

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 1, 2006</p> <p><b>Date of NOE Relating to this Case:</b> August 9, 2006</p> <p><b>Background Facts:</b> The EDPRP was filed on September 20, 2007. The EDFARP was filed on August 20, 2008, and re-filed for service on October 20, 2008, and November 19, 2008. Respondent received the EDFARP on November 21, 2008, as evidenced by a signed "green card." The Respondent has failed to answer the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The Respondent no longer owns the Facility. The current owner has registered the Facility.</p> <p><b>DCL:</b> Failed to complete and submit the required dry cleaners drop station registration form to the TCEQ for the Facility [30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH &amp; SAFETY CODE § 374.102].</p>	<p><b>Total Assessed:</b> \$1,185</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$1,185</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input 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 2002</p>	<p><b>Corrective Action Taken:</b></p> <p>The Executive Director recognizes that the Respondent registered the Facility on June 9, 2006.</p> <p>The Respondent no longer owns or operates the Facility.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	13-Aug-2006	Screening	15-Aug-2006	EPA Due	
	PCW	21-Jan-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Fairmont Cleaners, Inc dba Fairmont Cleaners
Reg. Ent. Ref. No.	RN104086384
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	30782	No. of Violations	1
Docket No.	2006-1316-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Michael Meyer
Multi-Media		EC's Team	Enforcement Team 8
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**  Subtotals 2, 3, & 7

Notes

**Culpability**   Subtotal 4

Notes

**Good Faith Effort to Comply**  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**  Subtotal 6

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

**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 15-Aug-2006

Docket No. 2006-1316-DCL-E

PCW

Respondent Fairmont Cleaners, Inc dba Fairmont Cleaners

Policy Revision 2 (September 2002)

Case ID No. 30782

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104086384

Media [Statute] Drycleaner

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	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%
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)

No

**Adjustment Percentage (Subtotal 3) 0%**

>> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7) 0%**

>> Compliance History Summary

Compliance History Notes

No adjustments are recommended based on compliance history.

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

Screening Date 15-Aug-2006

Docket No. 2006-1316-DCL-E

PCW

Respondent Fairmont Cleaners, Inc dba Fairmont Cleaners

Policy Revision 2 (September 2002)

Case ID No. 30782

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104086384

Media [Statute] Drycleaner

Enf. Coordinator Michael Meyer

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	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Two hundred thirty-seven daily events are recommended from the September 1, 2005 deadline to the April 26, 2006 deadline established by the TCEQ letter dated March 24, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

Respondent Fairmont Cleaners, Inc dba Fairmont Cleaners  
 Case ID No. 30782  
 Reg. Ent. Reference No. RN104086384  
 Media [Statute] Drycleaner  
 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
<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	\$250	01-Sep-2005	09-Jun-2006	0.8	\$10	n/a	\$10
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The estimated cost to register a dry cleaning or drop station facility annually. The date required is the date that the completed registration form was due and the final date is the date the respondent came into compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600588859 Fairmont Cleaners, Inc. Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN104086384 FAIRMONT CLEANERS Classification: HIGH Site Rating: 0.00  
ID Number(s): DRY CLEANERS REGISTRATION INTERNAL 104086384  
Location: 4850 FAIRMONT PKWY, PASADENA, TX, 77505  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: December 10, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 15, 2001 to August 15, 2006  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michael Meyer Phone: 239 - 4492

## 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 08/08/2006 (487436)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FAIRMONT CLEANERS, INC.  
DBA FAIRMONT CLEANERS;  
RN104086384**

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§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2006-1316-DCL-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. 374, and the rules of the TCEQ, which requests the imposition of an administrative penalty. The respondent made the subject of this Order is Fairmont Cleaners, Inc. dba Fairmont Cleaners ("Fairmont").

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

### **FINDINGS OF FACT**

1. Fairmont owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaners drop station located at 4850 Fairmont Parkway, Pasadena, Harris County, Texas (the "Facility"). The Facility is a retail commercial establishment, the primary business of which is to act as a collection point for the drop-off and pick-up of garments or other fabrics that are sent to a dry cleaning facility for processing. As such, the Facility is a dry cleaning drop station as defined in TEX. HEALTH & SAFETY CODE § 374.001(6).
2. During an inspection on conducted on June 1, 2006, a TCEQ Houston Regional Office investigator documented that Fairmont failed to complete and submit the required dry cleaners drop station registration form to the TCEQ for the Facility.
3. Fairmont received notice of the violation on or about August 14, 2006.
4. The Executive Director recognizes that Fairmont registered its Facility on June 9, 2006.
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 Fairmont Cleaners, Inc. dba Fairmont Cleaners" (the "EDPRP") in the TCEQ Chief Clerk's office on September 20, 2007.

6. By letter dated September 20, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Fairmont with notice of the EDPRP. According to the return receipt "green card," Fairmont received notice of the EDPRP on September 22, 2007, as evidenced by the signature on the card. Furthermore, the first class mailing has not been returned.
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 Fairmont Cleaners, Inc. dba Fairmont Cleaners" (the "EDFARP") in the TCEQ Chief Clerk's office on November 19, 2008.
8. By letter dated November 19, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Fairmont with notice of the EDFARP. According to the return receipt "green card", Fairmont received notice of the EDFARP on November 21, 2008, as evidenced by the signature on the card. Furthermore, the first class mailing has not been returned.
9. More than 20 days have elapsed since Fairmont received notice of the EDFARP, provided by the Executive Director. Fairmont 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 No. 1, Fairmont is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE §§ 374.001(12) and 374.001(6), and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Fairmont failed to complete and submit the required dry cleaners drop station registration form to the TCEQ for the Facility, in violation of 30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Fairmont 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 Nos. 7 and 8, the Executive Director has timely served Fairmont with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 9, Fairmont has 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 Fairmont and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Fairmont 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.
7. An administrative penalty in the amount of one thousand one hundred eighty-five dollars (\$1,185.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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. Fairmont is assessed an administrative penalty in the amount of one thousand one hundred eighty-five dollars (\$1,185.00) for violations of TEX. HEALTH & SAFETY CODE ch. 374 and rules of the TCEQ. The payment of this administrative penalty and Fairmont'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: Fairmont Cleaners, Inc. dba Fairmont Cleaners; Docket No. 2006-1316-DCL-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

3. All relief not expressly granted in this Order is denied.
4. If Fairmont 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, Fairmont's failure to comply is not a violation of this Order. Fairmont shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Fairmont shall notify the Executive Director within seven days after Fairmont becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this 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 Fairmont shall be made in writing to the Executive Director. Extensions are not effective until Fairmont receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Fairmont if the Executive Director determines that Fairmont has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. 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

**AFFIDAVIT OF TAMMY L. MITCHELL**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Tammy L. Mitchell. 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 Fairmont Cleaners, Inc. dba Fairmont Cleaners” (the “EDPRP”) was filed with the Office of the Chief Clerk on September 20, 2007.

The EDPRP was sent to Fairmont at the address of its registered agent on September 20, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Fairmont received notice of the EDPRP on September 22, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I 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 Fairmont Cleaners, Inc. dba Fairmont Cleaners” (the “EDFARP”) with the Office of the Chief Clerk on November 19, 2008.

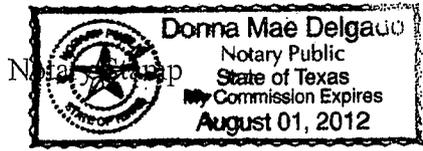
The EDFARP was sent to Fairmont at the address of its registered agent on November 19, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Fairmont received notice of the EDFARP on November 21, 2008, as evidenced by the signature on the card.

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

  
\_\_\_\_\_  
Tammy L. Mitchell  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tammy L. Mitchell, 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 21<sup>st</sup> day of January A.D., 2009.



Donna Mae Delgado  
Notary Signature