

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0555-WQ-E TCEQ ID: RN105119838 CASE NO.: 35662
RESPONDENT NAME: RICHARD GREEN DBA R & B HOMES

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: West side of Farm-to-Market Road 730 at the intersection with Sandstone Lane, Weatherford, Parker County</p> <p>TYPE OF OPERATION: Single-family residential construction site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired April 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Air Enforcement Section, MC R-4, (817) 588-5886 TCEQ Regional Contact: Mr. Sid Slocum, Dallas/Forth Worth Regional Office, MC R-4, (817) 588-5901 Respondent: Mr. Richard Green, Owner, R & B Homes, 127 Sunny Oaks Court, Weatherford, Texas, 76087 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 12, 2008</p> <p>Date of NOE Relating to this Case: March 12, 2008</p> <p>Background Facts: The EDP RP was filed September 18, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the returned receipt "green card," the Respondent received notice of the EDP RP on September 19, 2008. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>WQ: Failed to obtain authorization to discharge storm water associated with construction activities to waters in the state and to develop and implement a Stormwater Pollution Prevention Plan ("SWP3") [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. §122.26(c)].</p>	<p>Total Assessed: \$2,100</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$2,100</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>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 Provisions:</p> <p>The Respondent shall undertake the following corrective measures:</p> <ol style="list-style-type: none"> 1. Within 30 days, develop and implement an SWP3 and submit a Notice of Intent letter. 2. Within 45 days, submit written certification of compliance with Ordering Provision No. 1.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	31-Mar-2008	Screening	2-Apr-2008	EPA Due	
	PCW	2-Apr-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Richard Green dba R & B Homes		
Reg. Ent. Ref. No.	RN105119838		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35662	No. of Violations	1
Docket No.	2008-0555-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Cheryl Thompson
Multi-Media		EC's Team	Enforcement Team 3
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 Enhancement *Subtotals 2, 3, & 7*

Notes: The Respondent received one previous NOV for the same violation on January 25, 2007.

Culpability Enhancement *Subtotal 4*

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 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	<input checked="" type="checkbox"/>	(mark with x)

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

Total EB Amounts Enhancement* *Subtotal 6*
*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.

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:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

Screening Date 2-Apr-2008

Docket No. 2008-0555-WQ-E

PCW

Respondent Richard Green dba R & B Homes

Policy Revision 2 (September 2002)

Case ID No. 35662

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN105119838

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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)	1	5%
	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%
<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) 5%

>> **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

The Respondent received one previous NOV for the same violation on January 25, 2007.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 2-Apr-2008

Docket No. 2008-0555-WQ-E

PCW

Respondent Richard Green dba R & B Homes

Policy Revision 2 (September 2002)

Case ID No. 35662

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN105119838

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge storm water associated with construction activities to waters in the state and to develop and implement a stormwater pollution prevention plan ("SWP3").

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 504

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two monthly events are recommended from February 12, 2008 (date of investigation) to April 2, 2008 (date of screening).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$204

Violation Final Penalty Total \$2,100

This violation Final Assessed Penalty (adjusted for limits) \$2,100

Economic Benefit Worksheet

Respondent: Richard Green dba R & B Homes

Case ID No.: 35662

Reg. Ent. Reference No.: RN105119838

Media: Water 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
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No commas or \$

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	\$2,000	15-Nov-2006	30-Nov-2008	2.0	\$204	n/a	\$204
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with preparing, submitting, and obtaining a permit and developing and implementing a stormwater pollution prevention plan. The date required is date of the violation was first documented. The final date is the expected 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

\$2,000

TOTAL

\$204

Compliance History

Customer/Respondent/Owner-Operator: CN603127903 Richard Green dba R & B Homes Classification: AVERAGE Rating: 2.50
Regulated Entity: RN105119838 R & B HOMES SANDSTONE ESTATES Classification: AVERAGE Site Rating: 2.50
ID Number(s):
Location: Located on the west side of FM 730 at the intersection with Sandstone Lane Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: April 02, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 02, 2003 to April 02, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Phone: (817)588-5886

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 01/24/2007 (533165)
N/A
2 03/21/2008 (637635)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 01/25/2007 (533165)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to obtain authorization to discharge storm water associated with construction activity to water in the state.
 - 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 GREEN
DBA R & B HOMES,
RN105119838

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2008-0555-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 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 Green dba R & B Homes ("Mr. Green").

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

FINDINGS OF FACT

1. Mr. Green owns and operates a single-family residential construction site located at Farm-to-Market Road ("FM") 730 at the intersection with Sandstone Lane, Weatherford, Parker County, Texas (the "Site").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an inspection on February 12, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Mr. Green failed to obtain authorization to discharge storm water associated with construction activities to waters in the state and to develop and implement a storm water pollution prevention plan ("SWP3").
4. Mr. Green received notice of the violation on or about March 17, 2008.
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 Mr. Green” (the “EDPRP”) in the TCEQ Chief Clerk’s office on September 18, 2008.

6. By letter dated September 18, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Green with notice of the EDPRP. According to the return receipt “green card,” Mr. Green received notice of the EDPRP on September 19, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Green received notice of the EDPRP, provided by the Executive Director. Mr. Green 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. Green is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Green failed to obtain authorization to discharge storm water associated with construction activities to waters in the state and to develop and implement a SWP3, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Green with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Green has 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. Green 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. Green 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 two thousand one hundred dollars (\$2,100.00) 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. Green is assessed an administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Green'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 Green dba R & B Homes; Docket No. 2008-0555-WQ-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. Green shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Green shall develop and implement an SWP3 and submit a Notice of Intent letter, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) to:

Texas Commission on Environmental Quality
Wastewater Permitting Section, MC 148
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Mr. Green shall submit written certification of compliance with Ordering Provision No. 2.a. The certification shall include detailed supporting documentation including photographs, receipts, and/or

other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

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

and

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
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. Green. Mr. Green 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. Green 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. Green's failure to comply is not a violation of this Order. Mr. Green shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Green shall notify the Executive Director within seven days after Mr. Green 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. Green shall be made in writing to the Executive Director. Extensions are not effective until Mr. Green 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. Green if the Executive Director determines that Mr. Green has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

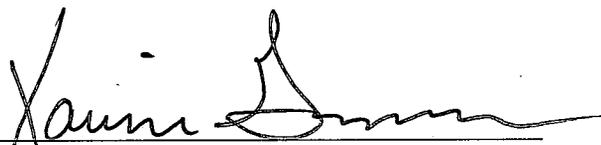
STATE OF TEXAS §
 §
COUNTY OF BEXAR §

“My name is Xavier Guerra. 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, I 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 Green dba R & B Homes” (the “EDPRP”) with the Office of the Chief Clerk on September 18, 2008.

I sent the EDPRP to Mr. Green at his last known address on September 18, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Green received notice of the EDPRP on September 19, 2008, as evidenced by the signature on the card.

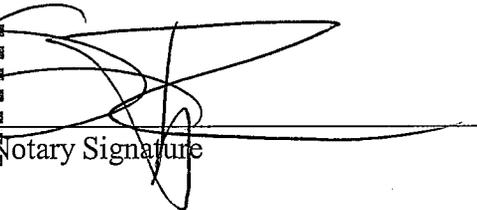
More than 20 days have elapsed since Mr. Green received notice of the EDPRP. Mr. Green failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Xavier Guerra
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 29th day of JANUARY, A.D., 2009.

Notary Stamp  **STACY TANNER**
Notary Public, State of Texas
My Commission Expires
NOVEMBER 16, 2009
Notary Signature 
Notary without Bond