

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0451-LII-E TCEQ ID: RN103229274 CASE NO.: 37399
RESPONDENT NAME: CHRIS JAMES BECKER

| | | |
|---|--|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input 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 checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |

SITE WHERE VIOLATION(S) OCCURRED: 5104 Jacobs Creek Court, Austin, Travis County

TYPE OF OPERATION: Landscape business

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: Two complaints were received alleging that the Respondent installed an irrigation system without obtaining a permit from the City of Austin, did not install a backflow prevention device, and was not honoring the warranty for the irrigation system. There is no record of additional pending enforcement actions regarding this Respondent.

INTERESTED PARTIES: The complainants have not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired November 23, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. John Shelton, Water Enforcement Section, MC 128, (512) 239- 2563

TCEQ Regional Contact: Ms. Carolyn Runyon, Austin Regional Office, MC R-11, (512) 239-2929

Respondent: Mr. Chris James Becker, 135 Saguaro Drive, Buda, Texas 78610 and P.O. Box 91984, Austin, Texas 78709

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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: March 22, 2007 February 6, 2008</p> <p>Date of Investigation Relating to this Case: March 9, 2009</p> <p>Date of NOE Relating to this Case: May 13, 2009</p> <p>Background Facts: The EDPRP was filed on August 3, 2009. Settlement was achieved, and the Agreed Order was signed on September 18, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation certifying compliance. The Respondent's irrigator license expires March 31, 2012.</p> <p>LII: Failed to comply with local requirements, ordinances and regulations designed to protect the public water supply [30 TEX. ADMIN. CODE § 344.24(a)].</p> | <p>Total Assessed: \$620</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 Paid to General Revenue: \$620</p> <p>The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately ensure all local and state regulations are followed, including any inspections and permits which must be obtained. 2. Within 15 days, submit written certification to demonstrate compliance with Ordering Provision No. 1. |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|
| DATES | Assigned | 16-Mar-2009 | | | |
| | PCW | 17-Jul-2009 | Screening | 1-Apr-2009 | EPA Due |

RESPONDENT/FACILITY INFORMATION

| | | |
|-----------------------------|--------------------|---------------------------|
| Respondent | Chris James Becker | |
| Reg. Ent. Ref. No. | RN103229274 | |
| Facility/Site Region | 11-Austin | Major/Minor Source |
| | | Minor |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 37399 | No. of Violations | 1 |
| Docket No. | 2009-0451-LII-E | Order Type | 1660 |
| Media Program(s) | Irrigators | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | John Shelton |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$2,500 |

Penalty Calculation Section

| | | |
|---|-------------------|-------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$500 |
|---|-------------------|-------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------|--------------------------------|------|
| Compliance History | 7.0% Enhancement | Subtotals 2, 3, & 7 | \$35 |
|---------------------------|------------------|--------------------------------|------|

Notes

The Respondent received one NOV with a same or similar violation and one NOV with a non-same or non-similar violation.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes

The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

| | |
|----------------------------|------|
| Total EB Amounts | \$85 |
| Approx. Cost of Compliance | \$85 |

*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$535 |
|-----------------------------|-----------------------|-------|

| | | | |
|---|-------|-------------------|------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 15.9% | Adjustment | \$85 |
|---|-------|-------------------|------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended adjustment to capture the avoided cost benefit associated with the violation.

| | |
|-----------------------------|-------|
| Final Penalty Amount | \$620 |
|-----------------------------|-------|

| | | |
|-----------------------------------|-------------------------------|-------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$620 |
|-----------------------------------|-------------------------------|-------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

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 | \$620 |
|------------------------|-------|

Screening Date 1-Apr-2009

Docket No. 2009-0451-LII-E

PCW

Respondent Chris James Becker

Policy Revision 2 (September 2002)

Case ID No. 37399

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103229274

Media [Statute] Irrigators

Enf. Coordinator John Shelton

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 | 1 | 2% |
| 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) 7%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one NOV with a same or similar violation and one NOV with a non-same or non-similar violation.

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

Screening Date 1-Apr-2009

Docket No. 2009-0451-LII-E

PCW

Respondent Chris James Becker

Policy Revision 2 (September 2002)

Case ID No. 37399

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103229274

Media [Statute] Irrigators

Enf. Coordinator John Shelton

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 344.24(a) [previously 30 Tex. Admin. Code § 344.70]

Violation Description

Failed to comply with local requirements, ordinances and regulations designed to protect the public water supply. Specifically, the Respondent installed an irrigation system at the Site without obtaining a permit and backflow prevention device inspection as required by the City of Austin.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

| OR | Harm | | | Percent |
|-----------|---------|-------|----------|---------|
| | Release | Major | Moderate | |
| Actual | | | | 0% |
| Potential | | | | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
| | | x | | | 10% |

Matrix Notes

100% of the rule requirement not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2 23 Number of violation days

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

Violation Base Penalty \$500

Two single events are recommended based on documentation of the violation during a record review conducted on March 9, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDRP/Settlement |
|---------------|------------|------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$85

Violation Final Penalty Total \$620

This violation Final Assessed Penalty (adjusted for limits) \$620

Economic Benefit Worksheet

Respondent: Chris James Becker
Case ID No.: 37399
Reg. Ent. Reference No.: RN103229274
Media: Irrigators
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|------|------------|------------|------|-----|------|------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$85 | 9-Mar-2009 | 1-Apr-2009 | 0.00 | \$0 | \$85 | \$85 |

Notes for AVOIDED costs

Estimated avoided cost to obtain a permit to install an irrigation system in Austin, Travis County, Texas and to have the backflow prevention device inspected. Date required is the record review date and the Final date is the screening date.

Approx. Cost of Compliance

\$85

TOTAL

\$85

Compliance History Report

| | | | | |
|---|------------------------------------|---------------------|-----------------------|--------------|
| Customer/Respondent/Owner-Operator: | CN601749864 | BECKER, CHRIS JAMES | Classification: | Rating: |
| Regulated Entity: | RN103229274 | BECKER, CHRIS JAMES | Classification: | Site Rating: |
| ID Number(s): | LANDSCAPE IRRIGATION LICENSING | LICENSE | | LI0006448 |
| Location: | 135 SAGUARO DRIVE, BUDA, TX, 78610 | | | |
| TCEQ Region: | REGION 11 - AUSTIN | | | |
| Date Compliance History Prepared: | March 31, 2009 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | March 31, 2004 to March 31, 2009 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | <u>John Shelton</u> | Phone: | <u>(512) 239-2563</u> | |

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | N/A |
| 6. | |

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.)

N/A

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

Date: 05/25/2007 (557253)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.96

Description: Failure by a licensed irrigator to present the customer, on all installations of new irrigation systems (i.e. excluding remodeling and renovation), a written statement of guarantees for materials and labor furnished in the installation of the irrigation system and honor the warranty.

Self NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter F 344.94(b)

Description: Failure by a licensed irrigator to include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087." on all written contracts and bills to install irrigation systems.

Date: 02/13/2008 (617595)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 344, SubChapter D 344.70

Description: Failure by a licensed irrigator to comply with local regulations that require reasonable inspection requirements, ordinances or regulations designed to

protect the public water supply, any of which relates to work performed or to be performed within such political subdivision's territory.

Specifically, during a record review initiated on 02/07/08, it was documented that Mr. Chris Becker, Landscape Irrigator License Number 6448, did not pulled a permit at the site location of 5104 Jacobs Creek.

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
CHRIS JAMES BECKER;
RN103229274

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0451-LII-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Chris James Becker ("Mr. Becker") under the authority of TEX. WATER CODE chs. 7 and 37 and Tex. Occupation Code ch. 1903. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Becker, appear before the Commission and together stipulate that:

1. Mr. Becker owns and operates a landscape business located at 135 Saguaro Drive, Buda, Hays County. Mr. Becker installed an irrigation system at 5104 Jacobs Creek Court, Austin, Travis County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and TCEQ rules.
3. The Commission and Mr. Becker agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Becker is subject to the Commission's jurisdiction.
4. Mr. Becker received notice of the violation alleged in Section II ("Allegations") on or about May 18, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Becker of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of six hundred twenty dollars (\$620.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Becker paid six hundred twenty dollars (\$620.00) of the administrative penalty.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Becker agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Becker has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During a record review conducted on March 9, 2009, a TCEQ Central Office investigator documented that Mr. Becker violated 30 TEX. ADMIN CODE § 344.24(a), by failing to comply with local requirements, ordinances and regulations designed to protect the public water supply. Specifically, Mr. Becker installed an irrigation system at the Site without obtaining a permit and backflow prevention device inspection as required by the City of Austin.

III. DENIALS

Mr. Becker generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Becker pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Becker's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here.
2. Mr. Becker shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Mr. Becker shall ensure all local and state regulations are followed, including any inspections and permits which must be obtained; and
 - b. Within 15 days after the effective date of this Agreed Order, Mr. Becker shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Mr. Becker shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. to:

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

and

Sandi Mota, Landscape Irrigation Program, MC 178
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

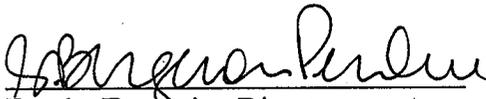
3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Becker.
4. If Mr. Becker fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Becker's failure to comply is not a violation of this Agreed Order. Mr. Becker shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Becker shall notify the Executive Director within seven days after Mr. Becker 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 Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Becker shall be made in writing to the Executive Director. Extensions are not effective until Mr. Becker receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Becker in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to Mr. Becker, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Becker, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/4/09

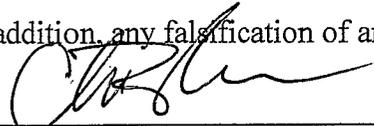
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Becker's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Becker
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Mr. Becker;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Becker; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

9/18/09

Date

CHRIS BECKER

Name (Printed or typed)

OWNER

Title

Authorized representative of
Chris James Becker