

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2009-0905-WOC-E RN103747317 CASE NO. 37776**  
**RESPONDENT NAME: JOHN L. MOORE**

<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 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 OCCURRED:** 476 Beaver Lane, Waco, McLennan County

**TYPE OF OPERATION:** Public water system

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired March 15, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717

**TCEQ Regional Contact:** Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001

**Respondent:** Mr. John L Moore, 476 Beaver Lane, Waco, Texas 76705

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

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><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> April 29, 2009</p> <p><b>Date of NOE Relating to this Case:</b> May 27, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed December 8, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on December 9, 2009, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> No outstanding technical requirements.</p> <p><b>WOC:</b> Failed to obtain a valid water system operator's license prior to performing process control duties in the production, treatment, and distribution of public drinking water [30 TEX. ADMIN. CODE §§ 30.5(a) and 30.381(b), TEX. WATER CODE § 37.003, and TEX HEALTH &amp; SAFETY CODE § 341.034(b)].</p>	<p><b>Total Assessed:</b> \$718</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$718</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> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</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 Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent obtained his Class "D" Water Operator License on July 24, 2009.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	1-Jun-2009			
	<b>PCW</b>	16-Sep-2009	<b>Screening</b>	10-Jun-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	John L. Moore
<b>Reg. Ent. Ref. No.</b>	RN103747317
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37776	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0905-WOC-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	All Occupational Licenses	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Tel Croston
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$100
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Notes: Enhancement is due to one agreed final enforcement order containing a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$118  
 Approx. Cost of Compliance \$111  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$600
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	19.7%	<b>Adjustment</b>	\$118
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

<b>Final Penalty Amount</b>	\$718
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$718
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<b>DEFERRAL</b>		Reduction	<b>Adjustment</b>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$718
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Screening Date 10-Jun-2009

Docket No. 2009-0905-WOC-E

PCW

Respondent John L. Moore

Policy Revision 2 (September 2002)

Case ID No. 37776

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103747317

Media [Statute] All Occupational Licenses

Enf. Coordinator Tel Croston

### 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)	1	20%
	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) 20%

#### >> 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

Enhancement is due to one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

**Screening Date** 10-Jun-2009 **Docket No.** 2009-0905-WOC-E **PCW**  
**Respondent** John L. Moore *Policy Revision 2 (September 2002)*  
**Case ID No.** 37776 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103747317  
**Media [Statute]** All Occupational Licenses  
**Enf. Coordinator** Tel Croston

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 30.5(a) and 30.381(b), Tex. Water Code § 37.003, and Tex Health & Safety Code 341.034(b)  
**Violation Description** Failed to obtain a valid water system operator's license prior to performing process control duties in the production, treatment, and distribution of public drinking water. Specifically, the Respondent was operating Moores Water System without a valid class "D" water operator license. The Respondent's water operator's license expired on March 1, 2009.

**Base Penalty** \$2,500

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

OR	<b>Harm</b>			Percent	
	<b>Release</b>	Major	Moderate		Minor
	Actual				
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			10%

**Matrix Notes** Failed to comply with 100% of the rule requirement.

**Adjustment** \$2,250

\$250

**Violation Events**

Number of Violation Events 2 42 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$500

Two monthly events are recommended from the date of the investigation, April 29, 2009, to the date of screening, June 10, 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** \$118 **Violation Final Penalty Total** \$718

**This violation Final Assessed Penalty (adjusted for limits)** \$718

## Economic Benefit Worksheet

**Respondent** John L. Moore  
**Case ID No.** 37776  
**Reg. Ent. Reference No.** RN103747317  
**Media** All Occupational Licenses  
**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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### 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)	\$111	1-Mar-2009	10-Jun-2009	1.19	\$7	\$111	\$118

Notes for AVOIDED costs

The avoided cost includes the amount to obtain a valid public water system operator license. Date required is the date the Respondent's operator license expired. Final date is the screening date.

Approx. Cost of Compliance

\$111

**TOTAL**

\$118

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602262800 MOORE, JOHN L Classification: Rating:  
Regulated Entity: RN103747317 MOORE, JOHN L Classification: Site Rating:  
ID Number(s):  
Location: 476 Beaver Lane, McLennan County, Texas  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: June 10, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 10, 2004 to June 10, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Tel Croston Phone: 239 - 5717

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator 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.  
Effective Date: 06/19/2008 ADMINORDER 2007-0271-WOC-E  
Classification: Minor  
Citation: 2F TWC Chapter 37, SubChapter L 37.003  
30 TAC Chapter 30, SubChapter K 30.381(b)  
Description: Failure by an individual operating a public water supply to acquire and maintain the necessary license.
- 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 02/05/2007 (534691)  
2 05/29/2009 (744285)
- 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  
JOHN L. MOORE;  
RN103747317**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2009-0905-WOC-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 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty on the respondent. The respondent made the subject of this Order is John L. Moore (“Mr. Moore”).

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

**FINDINGS OF FACT**

1. Mr. Moore owns and operates a public water system located at 476 Beaver Lane, Waco, McLennan County, Texas (the “Facility”). The Facility provides water for human consumption, has approximately 89 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. Mr. Moore performs process control duties in the production, treatment, or distribution of public drinking water at the Facility. Therefore, Mr. Moore is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE chs. 7 and 37 and TEX. HEALTH & SAFETY CODE ch. 341.
3. During an investigation conducted on April 29, 2009, a TCEQ Waco Regional Office investigator documented that Mr. Moore failed to obtain a valid water system operator’s license prior to performing process control duties in the production, treatment, and distribution of public drinking water. Specifically, Mr. Moore was operating Moore’s Water System without a valid Class “D” water operator license. Mr. Moore’s water operator’s license expired on March 1, 2009.
4. Mr. Moore received notice of the violation on or about June 1, 2009.

5. The Executive Director recognizes that Mr. Moore obtained his Class “D” Water Operator License on July 24, 2009.
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 John L. Moore” (the “EDPRP”) in the TCEQ Chief Clerk’s office on December 8, 2009.
7. By letter dated December 8, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Moore with notice of the EDPRP. According to the return receipt “green card,” Mr. Moore received notice of the EDPRP on December 9, 2009, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Mr. Moore received notice of the EDPRP provided by the Executive Director. Mr. Moore 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. Moore is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. WATER CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Moore failed to obtain a valid water system operator’s license prior to performing process control duties in the production, treatment, and distribution of public drinking water, in violation of 30 TEX. ADMIN. CODE §§ 30.5(a) and 30.381(b), TEX. WATER CODE § 37.003, and TEX. HEALTH & SAFETY CODE § 341.034(b).
3. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Moore 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. 8, Mr. Moore failed to file a timely answer 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. Moore 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. Moore 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 seven hundred eighteen dollars (\$718.00) 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. Moore is assessed an administrative penalty in the amount of seven hundred eighteen dollars (\$718.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Mr. Moore'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: John L. Moore; Docket No. 2009-0905-WOC-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Mr. Moore. Mr. Moore is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. If Mr. Moore 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. Moore's failure to comply is not a violation of this Order. Mr. Moore shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Moore shall notify the Executive Director within seven days after

Mr. Moore 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 Mr. Moore shall be made in writing to the Executive Director. Extensions are not effective until Mr. Moore 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 Mr. Moore if the Executive Director determines that Mr. Moore 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.

**John L. Moore**  
**Docket No. 2009-0905-WOC-E**  
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## **SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF STEPHANIE J. FRAZEE**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Stephanie J. Frazee. 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 John L. Moore” (the “EDPRP”) was filed with the Office of the Chief Clerk on December 8, 2009.

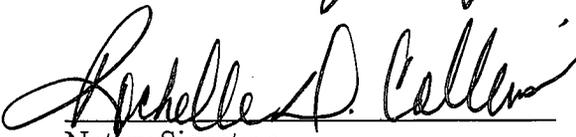
The EDPRP was mailed to Mr. Moore at his last known address on December 8, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Moore received notice of the EDPRP on December 9, 2009, as evidenced by the signature on the card.

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

  
\_\_\_\_\_  
Stephanie J. Frazee, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, 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 20<sup>th</sup> day of January, A.D., 2010.

  
\_\_\_\_\_  
Notary Signature

