

Executive Summary – Enforcement Matter – Case No. 38544
DeBerry Forestry & Wildlife Management, L.L.C. dba DeBerry Mine
RN105807697
Docket No. 2011-0243-WQ-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

3.5 miles west on Farm-to-Market Road 1649 from Ore City and one mile west on Periwinkle Road past Stanley Road on the south side in Upshur County.

Type of Operation:

crushed and broken limestone and iron ore mine

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: A default order against the operator of the Site, Flat Rock Minerals, LLC, was approved at the May 11, 2011, Commission agenda.

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: August 5, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$15,000

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$440

Total Due to General Revenue: \$14,560

Payment Plan: 35 payments of \$416 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Not yet rated

Site/RN – Not yet rated

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): June 3, 2009
Complaint Information: Alleged that the Site did not have any storm water BMPs and that sediment was being discharged from the Site. On July 17, 2009, the complainant informed TCEQ that approximately 20 truckloads of material had been moved off the Site in the past week.

Date(s) of Investigation: June 11, 2009 – September 16, 2009

Date(s) of NOV(s): N/A

Date(s) of NOE(s): October 9, 2009

Violation Information

Failed to prevent the unauthorized discharge of sediment adjacent to water in the state that resulted in a documented serious impact to the environment (sediment build-up along the banks of the receiving stream destroyed habitat that was occupied by benthic macroinvertebrates, tadpoles, and other small aquatic organisms) [TEX. WATER CODE § 26.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Obtained permit coverage under Texas Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit No. TXR05Y786 (“Permit No. TXR05Y786”) on September 12, 2009;
2. Installed pollution prevention devices between November 3, 2009, and December 3, 2009, including installing earth and rock berms, sediment traps, hay bales to control velocity of storm water and to filter sediment, and creating a channel to divert storm water away from the receiving stream;
3. Conducted annual monitoring, sampling, and reporting as required under Permit No. TXR05Y786 in 2010; and
4. Closed the Facility in December 2010.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: September 15, 2010

Date Answer(s) Filed: October 5, 2010

SOAH Referral Date: November 17, 2010

Hearing Date(s):
Preliminary hearing: January 13, 2011
Evidentiary hearing: July 21, 2011

Settlement Date: July 13, 2011

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RN105807697
Docket No. 2011-0243-WQ-E

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Contact Information

TCEQ Attorneys: Stephanie Frazee, Litigation Division, (512) 239-3693
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, Water Enforcement Section, (817) 588-5890

TCEQ Regional Contact: Noel Luper, Tyler Regional Office, (903) 535-5174

Respondent: Gaston W. DeBerry, III, Manager and Registered Agent DeBerry Forestry & Wildlife Management, L.L.C., P.O. Box 10, Ore City, Texas 75683

Respondent's Attorney: Brad B. Castleberry, Lloyd, Gosselink, Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Oct-2009			
	PCW	29-Jun-2011	Screening	13-Oct-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	DeBerry Forestry & Wildlife Management, L.L.C. dba DeBerry Mine				
Reg. Ent. Ref. No.	RN105807697				
Facility/Site Region	5-Tyler	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	38544	No. of Violations	1		
Docket No.	2011-0243-WQ-E	Order Type	Findings		
Media Program(s)	Water Quality	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.		
		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	\$15,000
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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.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No change due to no prior compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,154
Approx. Cost of Compliance	\$26,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$15,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$15,000
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Screening Date 13-Oct-2009

Docket No. 2011-0243-WQ-E

PCW

Respondent DeBerry Forestry & Wildlife Management, L.L.C. dba Def

Policy Revision 2 (September 2002)

Case ID No. 38544

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105807697

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 0%

>> 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

No change due to no prior compliance history.

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

Screening Date 13-Oct-2009 **Docket No.** 2011-0243-WQ-E **PCW**
Respondent DeBerry Forestry & Wildlife Management, L.L.C. dba DeBerry Mine *Policy Revision 2 (September 2002)*
Case ID No. 38544 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105807697
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1
Rule Cite(s) Tex. Water Code § 26.121
Violation Description Failed to prevent the unauthorized discharge of sediment adjacent to water in the state which resulted in a documented serious impact to the environment. Specifically, there was significant sediment built up along the banks of the receiving stream, in some areas the sediment was over 20 inches thick. The deposited sediment destroyed habitat that was occupied by benthic macro invertebrates, tadpoles, and other small aquatic organisms. There was also sediment along Periwinkle Road and along the road ditch.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			50%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to prevent the unauthorized discharge of sediment adjacent to water in the state resulted in the release of significant amounts of pollutants as which exceeded levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3 62 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Three monthly events are recommended. The penalty was calculated from the date the violation was documented, August 12, 2009, to the screening date of October 13, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$522 **Violation Final Penalty Total** \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent DeBerry Forestry & Wildlife Management, L.L.C. dba DeBerry Mine
Case ID No. 38544
Reg. Ent. Reference No. RN105807697
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
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	\$8,000	12-Aug-2009	1-Jun-2010	0.80	\$321	n/a	\$321
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	12-Aug-2009	1-Jun-2010	0.80	\$201	n/a	\$201

Notes for DELAYED costs

Estimated cost to install best management practices and to remove sediment from affected areas. Date required is date the violation was documented. Final date is the expected compliance date.

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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$13,000

TOTAL

\$522

Compliance History Report

Customer/Respondent/Owner-Operator: CN603537481 DeBERRY FORESTRY & WILDLIFE
MANAGMENT, L.L.C. Classification: Rating:
Regulated Entity: RN105807697 DEBERRY MINE Classification: Site Rating:
ID Number(s): STORMWATER PERMIT TXR05Y786
Location: 3.5 MILES WEST ON FM 1649 FROM ORE CITY AND ONE
MILE WEST ON PERIWINKLE RD PAST STANLEY RD ON
THE SOUTH SIDE IN UPSHUR COUNTY
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: October 12, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 12, 2004 to October 12, 2009

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.
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.)
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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING DEBERRY FORESTRY & WILDLIFE MANAGEMENT, L.L.C. D/B/A DEBERRY MINE; RN105807697	§ § § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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AGREED ORDER

DOCKET NO. 2011-0243-WQ-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding DeBerry Forestry & Wildlife Management, L.L.C. d/b/a DeBerry Mine ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Brad B. Castleberry of Lloyd Gosselink Rochelle & Townsend, P.C., presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owns a crushed and broken limestone and iron ore mine located 3.5 miles west on Farm-to-Market Road 1649 from Ore City and one mile west on Periwinkle Road past Stanley Road on the south side in Upshur County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted from June 11, 2009, through September 16, 2009, a TCEQ Tyler Regional Office investigator documented that Respondent failed to prevent the unauthorized discharge of sediment adjacent to water in the state that resulted in a documented serious impact to the environment. Specifically, there

was significant sediment built up along the banks of the receiving stream; in some areas the sediment was over 20 inches thick. The deposited sediment destroyed habitat that was occupied by benthic macroinvertebrates, tadpoles, and other small aquatic organisms. There was also sediment along Periwinkle Road and along the road ditch.

3. Respondent received notice of the violation on or about October 14, 2009.
4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Obtained permit coverage under Texas Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit No. TXR05Y786 ("Permit No. TXR05Y786") on September 12, 2009;
 - b. Installed pollution prevention devices between November 3, 2009, and December 3, 2009, including installing earth and rock berms, sediment traps, hay bales to control velocity of storm water and to filter sediment, and creating a channel to divert storm water away from the receiving stream;
 - c. Conducted annual monitoring, sampling, and reporting as required under Permit No. TXR05Y786 in 2010; and
 - d. Closed the Facility in December 2010.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent 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. 2, Respondent failed to prevent the unauthorized discharge of sediment adjacent to water in the state that resulted in a documented serious impact to the environment, in violation of TEX. WATER CODE § 26.121.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of fifteen thousand dollars (\$15,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid four hundred forty dollars (\$440.00) of the administrative penalty. The remaining amount of fourteen thousand five hundred-sixty dollars (\$14,560.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of four hundred sixteen dollars (\$416.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition,

Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: DeBerry Forestry & Wildlife Management, L.L.C. d/b/a DeBerry Mine, Docket No. 2011-0243-WQ-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. All relief not expressly granted in this Agreed Order is denied.
3. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Respondent 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent 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, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further

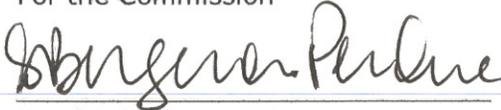
enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 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 Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, 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

9/29/2011

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 DeBerry Forestry & Wildlife Management, L.L.C. d/b/a DeBerry Mine, 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 failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature - Gaston DeBerry, III, Manager
DeBerry Forestry & Wildlife Management, L.L.C

7-13-11

Date