

Phillicia K. Dean d/b/a Annex Cleaners 2 and Mary L. Shumaker d/b/a Annex Cleaners 2
RN102913936
Docket No. 2011-1133-DCL-E

Order Type:

Default Order (SOAH evidentiary hearing)

Media:

DCL

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1620 Martin Luther King Jr. Boulevard, Dallas, Dallas County

Type of Operation:

dry cleaner drop station

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date:	March 29, 2013
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$5,000
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Total Paid to General Revenue:	\$0
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Total Due to General Revenue:	\$5,000
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Compliance History Classifications:

Person/CN – N/A (both Respondents)
 Site/RN – N/A

Major Source:	No
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Statutory Limit Adjustment:	\$3,859 (reduction)
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Applicable Penalty Policy:	September 2002
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Phillicia K. Dean d/b/a Annex Cleaners 2 and Mary L. Shumaker d/b/a Annex Cleaners 2
RN102913936
Docket No. 2011-1133-DCL-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 1, 2011
Date(s) of NOV(s): January 10, 2011
Date(s) of NOE(s): June 20, 2011

Violation Information

Failed to complete and submit the required registration form to the TCEQ for a dry cleaning facility and/or drop station [TEX. HEALTH & SAFETY CODE § 374.102 and 30 TEX. ADMIN. CODE § 337.10(b)(1)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Submitted the required dry cleaner/drop station registration forms on November 16, 2012.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: December 7, 2011
Date(s) Green Card(s) Signed: December 10, 2011
Date(s) Answer(s) Filed: December 28, 2011
SOAH Referral Date(s): May 31, 2012
Hearing Date(s):
Preliminary Hearing: July 19, 2012 (both Respondents attended)
Evidentiary Hearing: January 9, 2013 (defaulted)

Contact Information

TCEQ Attorneys: Rudy Calderon, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
James Murphy, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Brianna Carlson, Waste Enforcement Section, (361) 825-3420
TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903
Respondent: Mary L. Shumaker, 1620 Martin Luther King Jr. Boulevard, Dallas, Texas 75215
Phillicia K. Dean, 1620 Martin Luther King Jr. Boulevard, Dallas, Texas 75215
Respondents' Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Jun-2011	Screening	30-Jun-2011	EPA Due	
	PCW	14-Oct-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	Phyllicia K. Dean and Mary L. Shumaker dba Annex Cleaners 2					
Reg. Ent. Ref. No.	RN102913936					
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	41999	No. of Violations	1			
Docket No.	2011-1133-DCL-E	Order Type	1660			
Media Program(s)	Dry Cleaner	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Brianna Carlson			
		EC's Team	Enforcement Team 7			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$50			

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,815
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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	30.0% Enhancement	Subtotals 2, 3, & 7	\$2,044
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Notes: Enhancement for one NOV with same/similar violations and one default order.

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	\$56
Approx. Cost of Compliance	\$250

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,859
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$8,859
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,000
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Screening Date 30-Jun-2011

Docket No. 2011-1133-DCL-E

PCW

Respondent Phillicia K. Dean and Mary L. Shumaker dba Anne

Policy Revision 2 (September 2002)

Case ID No. 41999

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102913936

Media [Statute] Dry Cleaner

Enf. Coordinator Brianna Carlson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	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	1	25%
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) 30%

>> 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 for one NOV with same/similar violations and one default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 30-Jun-2011

Docket No. 2011-1133-DCL-E

PCW

Respondent Phillicia K. Dean and Mary L. Shumaker dba Annex Cleaners 2

Policy Revision 2 (September 2002)

Case ID No. 41999

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102913936

Media [Statute] Dry Cleaner

Enf. Coordinator Brianna Carlson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 337.10(b)(1)(A) and Tex. Health & Safety Code § 374.102

Violation Description Failed to complete and submit the required registration form to the TCEQ for a dry cleaning facility and/or drop station. Specifically, a registration was not submitted to reflect the ownership change on October 6, 2007.

Base Penalty \$50

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

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

Adjustment \$45

\$5

Violation Events

Number of Violation Events 1363 Number of violation days 1363

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$6,815

One Thousand Three Hundred Sixty-Three daily events are recommended from the October 6, 2007 change of ownership date to the June 30, 2011 screening date.

Good Faith Efforts to Comply

Table with columns: Reduction (0.0%), Before NOV, NOV to EDPRP/Settlement Offer.

\$0

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$6,815

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$56

Violation Final Penalty Total \$8,860

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Phillicia K. Dean and Mary L. Shumaker dba Annex Cleaners 2
Case ID No. 41999
Req. Ent. Reference No. RN102913936
Media Dry Cleaner
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				0.00	\$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	\$250	6-Oct-2007	26-Mar-2012	4.47	\$56	n/a	\$56
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register a dry cleaning facility or drop station annually. The date required is the change of ownership date and the final date is the estimated date of compliance.

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

\$250

TOTAL

\$56

Compliance History

Customer/Respondent/Owner-Operator:	CN603862889 Phillicia K. Dean	Classification:	Rating:
Regulated Entity:	RN102913936 Annex Cleaners 2	Classification:	Site Rating:
ID Number(s):	DRY CLEANERS REGISTRATION INTERNAL	102913936	
Location:	1620 MARTIN LUTHER KING JR BLVD, DALLAS, TX, 75215		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	June 27, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 27, 2006 to June 27, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Brianna Carlson	Phone:	956/430-6021

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? Yes
3. If Yes, who is the current owner/operator?

OWNOPR	Phillicia K. Dean
OWNOPR	Mary L. Shumaker
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN Carol D. Shumaker
5. When did the change(s) in owner or operator occur? 10/06/2007 OWN Carol D. Shumaker

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 12/09/2007

ADMINORDER 2006-1272-DCL-E

Classification: Major

Citation: 30 TAC Chapter 337, SubChapter B 337.10(a)

TEXAS HEALTH AND SAFETY CODE 374.102(a)

Description: Failure to register as dry cleaning drop station for Fiscal Year 2006.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/07/2006 (488086)

2 06/04/2008 (653763)

3 04/21/2009 (688647)

4 06/16/2011 (923772)

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

Date: 01/10/2011 (884461)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 337, SubChapter B 337.10(a)

5B THSC Chapter 374, SubChapter C 374.102

Description: Failure to obtain Dry Cleaner Drop Station registration for fiscal year 2011.

- 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
PHILLICIA K. DEAN D/B/A
ANNEX CLEANERS 2 AND
MARY L. SHUMAKER D/B/A
ANNEX CLEANERS 2;
RN102913936**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1133-DCL-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 374, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondents made the subject of this Order are Phillicia K. Dean d/b/a Annex Cleaners 2 and Mary L. Shumaker d/b/a Annex Cleaners 2 ("Respondents").

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

FINDINGS OF FACT

1. Respondents own, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operate a dry cleaner drop station located at 1620 Martin Luther King Jr. Blvd in Dallas, Dallas County, Texas (the "Facility"). The Facility is a retail commercial establishment the primary business of which is to act as a collection point for the drop-off and pick-up of garments or other fabrics that are sent to a dry cleaning facility for processing. As such, the Facility is a dry cleaning drop station as defined in TEX. HEALTH & SAFETY CODE § 374.001(6).
2. During a record review conducted on May 1, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondents failed to complete and submit the required registration form to the TCEQ for a dry cleaning facility and/or drop station. Specifically, a registration was not submitted to reflect the ownership change on October 6, 2007.
3. Respondents received notice of the violation on or about June 25, 2011.
4. The Executive Director recognizes that on November 16, 2012, Respondents submitted the required dry cleaner and/or drop station registration forms for the Facility.
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 Phillicia K. Dean d/b/a Annex Cleaners 2 and Mary L. Shumaker d/b/a Annex Cleaners 2" (the "EDPRP") in the TCEQ Chief Clerk's office on December 7, 2011.

6. By letter dated December 7, 2011, sent to each Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," each Respondent received notice of the EDPRP on December 10, 2011, as evidenced by the signatures on the cards.
7. Respondent Mary L. Schumaker filed an answer requesting a hearing on December 28, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on May 31, 2012.
8. On December 5, 2012, the Administrative Law Judge ("ALJ") issued Order No. 4, which set the evidentiary hearing for January 9, 2013. The SOAH docket clerk mailed a copy of Order No. 4 to each Respondent at their last known address via first class mail, postage pre-paid.
9. On January 9, 2013, the ALJ convened the evidentiary hearing. Respondents failed to appear, and the Executive Director requested that the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
10. On January 9, 2013, the ALJ entered a finding that each Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 5, Announcing Default, Dismissing Case, & Remanding To TCEQ, so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 374 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondents failed to complete and submit the required registration form to the TCEQ for a dry cleaning facility and/or drop station, in violation of TEX. HEALTH & SAFETY CODE § 374.102 and 30 TEX. ADMIN. CODE § 337.10(b)(1)(A).
3. As evidenced by Finding of Fact No. 6, the Executive Director timely served each Respondent with notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 7, Respondent Mary L. Schumaker filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 8, each Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
6. As evidenced by Findings of Fact Nos. 9 and 10, Respondents failed to appear for the evidentiary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE

§ 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).

7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.
8. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE §§ 7.053 and 7.0525(c).
9. 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. Respondents are assessed an administrative penalty in the amount of five thousand dollars (\$5,000.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' 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.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Phillicia K. Dean d/b/a Annex Cleaners 2 and Mary L. Shumaker d/b/a Annex Cleaners 2; Docket No. 2011-1133-DCL-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
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Respondents if the Executive Director determines that Respondents have 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF RUDY CALDERON

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Rudy Calderon. 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 and Requiring Certain Actions of Phillicia K. Dean d/b/a Annex Cleaners 2 and Mary L. Shumaker d/b/a Annex Cleaners 2" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 7, 2011.

The EDPRP was mailed to each Respondent at her last known address on December 7, 2011, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on December 10, 2011, as evidenced by the signatures on the cards.

Respondent Mary L. Shumaker filed an answer requesting a hearing on December 28, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on May 31, 2012. On December 5, 2012, the Administrative Law Judge issued Order No. 4, which set the evidentiary hearing for January 9, 2013. The SOAH docket clerk mailed a copy of Order No. 4 to each Respondent at their last known address via first class mail, postage pre-paid.

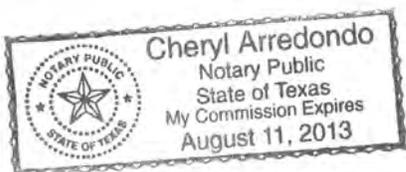
Respondents failed to appear at the hearing on January 9, 2013. At that hearing, I requested that the ALJ enter a finding that Respondents were served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the agency for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 5, Announcing Default, Dismissing Case, And Remanding To The TCEQ, issued on January 9, 2013, so that TCEQ may dispose of this case on a default basis."

Rudy Calderon, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rudy Calderon, 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 4th day of April, A.D. 2013.



Notary Signature