

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 12, 2008

LaDonna Castañuela, Chief Clerk  
Texas Commission on Environmental Quality  
Attention: Docket Clerk, MC 105  
P.O. Box 13087  
Austin, Texas 78711-3087

CHIEF CLERKS OFFICE

2008 MAY 12 PM 3:09

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Re: Clarence A. Reeves dba Pleasant Ridge Addition and dba Timber Creek Addition  
SOAH Docket No. 582-08-1716  
TCEQ Docket No. 2005-1860-PWS-E  
Executive Director's Exceptions

Dear Ms. Castañuela:

On behalf of the Executive Director, please find enclosed the original and 8 copies of "Executive Director's Exceptions." Please file the original and return the date-stamped copy to Patrick N. Jackson, MC 175.

Please contact me at (512) 239-6501 with any questions you may have. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick N. Jackson", written over a horizontal line.

Patrick N. Jackson  
Attorney  
Litigation Division

cc: Cheryl Thompson, Enforcement Division, TCEQ, MC R-4  
Sid Slocum, Water Section Manager, TCEQ, MC R-4  
Blas Coy, Public Interest Counsel, TCEQ, MC 103



## II. Exceptions

The Executive Director agrees with and supports the adoption of the majority of the Administrative Law Judge's ("ALJ") findings and conclusions. The ALJ concluded that Mr. Reeves committed the alleged violations. He also finds that the proposed penalty of \$20,760 is appropriate and recommends that the Commission assess that penalty against Mr. Reeves and order him to take the corrective action proposed by the Executive Director.

## III. Suggested Modifications

The Executive Director suggests the following changes be made to the ALJ's Proposed Order:

1. In paragraph 6.i. of the Findings of Fact on page 4 of the Order, delete the extra "m" at the beginning of the word maintain so that it reads "maintain" instead of "mmaintain".
2. On page 5 of the Order insert a new Findings of Fact paragraph 9 that reads "On March 6, 2008, the ED re-issued the EDPRP and mailed it to Mr. Reeves at his last known address in order to correct a clerical error in the attachment."
3. Starting on page 5 of the Order and ending on page 7 of the order, re-number the Findings of Fact paragraphs which are currently 9 through 22 to 10 through 23 in order to accommodate the newly inserted paragraph 9.
4. On page 11 of the Order add a footnote to paragraph 4.a.i. of the Ordering Provisions in order to reflect amendments of the rules. The footnote should be footnote 1 and it should read "30 TAC § 290.42(i) is now found at 30 TAC § 290.42(j) adopted to be effective January 9, 2008, 33 Tex. Reg. 198."
5. On page 12 of the Order add a footnote to paragraph 4.c.iii. of the Ordering Provisions in order to reflect amendments of the rules. The footnote should be footnote 2 and it should read "30 TAC § 290.42(k) is now found at 30 TAC § 290.42(l) adopted to be effective January 9, 2008, 33 Tex. Reg. 198."
6. On page 13 of the Order add a footnote to paragraph 5.a.i. of the Ordering Provisions in order to reflect amendments of the rules. The footnote should be footnote 3 and it should read "See Footnote 1."

**Executive Director's Exceptions to Proposal for Decision**

**SOAH Docket No. 582-08-1716**

**TCEQ Docket No. 2005-1860-PWS-E**

**Page 3**

7. On page 13 of the Order paragraph 5.a.vi. of the Ordering Provisions should be deleted, because there is no corresponding violation.
8. On page 14 of the Order paragraph 5.a.xii of the Ordering Provisions should be deleted, because it is redundant to Ordering Provision 5.c.ii.
9. Starting on page 13 of the Order and ending on page 14 of the order, re-number the paragraphs which are currently Ordering Provisions 5.a.vi. through 5.a.xvii. to 5.a.vi. through 5.a.xv. in order to accommodate for the deletion of paragraphs 5.a.vi. and 5.a.xii.
10. On page 14 of the Order paragraph 5.a.xiii of the Ordering Provisions, which will become 5.a.xi. under Suggested Modifications 7 through 9, change the citation from "290.45(b)(1)(C)(iii)" to "290.45(b)(1)(B)(iii)", in order to accurately reflect the rule violation addressed by the Ordering Provision.
11. In paragraph 5.b. of the Ordering Provisions on page 14 of the Order, delete the extra period so that the end of the paragraph reads "5.a." rather than "5.a.."
12. On page 14 of the Order add a footnote to paragraph 5.c.iii. of the Ordering Provisions in order to reflect amendments of the rules. The footnote should be footnote 4 and it should read "See Footnote 2."

**IV. Conclusion**

The Executive Director respectfully requests that the Commission adopt the ALJ's Proposal for Decision and enter the Proposed Order with the changes requested by the Executive Director.

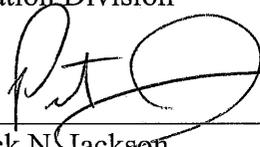
Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle  
Executive Director

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services

Jeffrey J. Huhn, Acting Division Director  
Litigation Division

by 

Patrick N. Jackson

State Bar of Texas No. 24055724

Litigation Division, MC 175

P.O. Box 13087

Austin, Texas 78711-3087

(512) 239-6501

(512) 239-3434 (FAX)

**CERTIFICATE OF SERVICE**

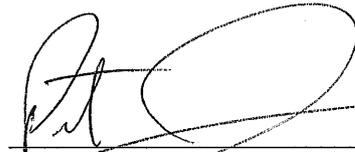
I hereby certify on this 12<sup>th</sup> day of May, 2008, the original and 8 copies of the foregoing "Executive Director's Exceptions" ("Exceptions") were filed with the Chief Clerk of the Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day, a true and correct copy of the foregoing Exceptions were mailed via Certified Mail, Return Receipt Requested (Article No. 91 7108 2133 3935 19504545), and via First Class Mail to:

Clarence A. Reeves, Owner  
Pleasant Ridge Addition and Timber Creek Addition  
P.O. Box 514  
Gordonville, Texas 76245

I further certify that on this day, a true and correct copy of the foregoing Exceptions was delivered to the State Office of Administrative Hearings via hand-delivery and via Facsimile at (512) 475-4994, Attn: William G. Newchurch, Administrative Law Judge.

I further certify that on this day a true and correct copy of the foregoing Exceptions was hand-delivered to the Office of the Public Interest Counsel, Texas Commission on Environmental Quality, Austin, Texas.

  
\_\_\_\_\_  
Patrick N. Jackson  
Attorney  
Litigation Division  
Texas Commission on Environmental Quality

CHIEF CLERK'S OFFICE  
2008 MAY 12 PM 3:00  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY