

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Kelly Keel, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 20, 2023

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

Re: Kirk Washington; CN606036713; RN111531703  
Denial of Application for Water Operator D License  
TCEQ Docket No. 2023-1612-LIC

On behalf of the Executive Director, and pursuant to 30 TEX. ADMIN. CODE (TAC) § 70.109, please consider this letter a request for referral of the Executive Director's denial of Kirk Washington's application for a Water Operator D License to the State Office of Administrative Hearings ("SOAH") for SOAH to acquire jurisdiction over the contested case.

Accordingly, the Executive Director requests that you file a Request for Docket Case form for the above referenced case. The Executive Director initially notified Mr. Washington of his decision on the Water Operator D license application on October 25, 2022. The Executive Director sent a second notice on November 29, 2022. Mr. Washington filed a timely response on December 14, 2022.

The denial notifications and hearing request are attached to this letter. According to 30 TAC § 30.38 all hearings regarding Occupational Licenses are to be conducted according to 30 TAC Chapters 70 and 80; 30 TAC § 70.109 provides that the Executive Director may request that the chief clerk refer the cases to SOAH for a contested case hearing. Additionally, please issue the necessary public notice of the hearing.

Please contact me at (512) 239-0133 with any questions you may have. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Alicia Ramirez", with a long horizontal flourish extending to the right.

Alicia Ramirez  
Staff Attorney  
Environmental Law Division

cc: Mr. Kirk Washington, 31739 Summit Springs Lane, Spring, Texas 77386  
Jaya Zyman, P.E., Occupational Licensing & Registration Division Director, TCEQ  
Tamara Calhoun, Occupational Licensing Section Manager, TCEQ  
Rebecca Moore, Occupational Licensing & Registration Division, TCEQ  
Kenneth Smith, Occupational Licensing & Registration Division, TCEQ  
Garrett Arthur, Public Interest Counsel, TCEQ

bcc: Charmaine Backens, Environmental Law Division, TCEQ  
Todd Galiga, Environmental Law Division, TCEQ  
Aubrey Pawelka, Environmental Law Division, TCEQ  
Melissa Knight, General Law Division, TCEQ

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 25, 2022

Mr. Kirk Washington  
31739 Summit Springs Ln.  
Spring, TX 77386

RE: Initial Application for Water Operator D License- First Notice

Dear Mr. Washington:

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) received your Water Operator D license application in July 2022. As part of the application review process, the ED is required to review an applicant's criminal history. The review was conducted in accordance with guidelines established by 30 Texas Administrative Code (TAC) Section (§) 30.35. The review of your application revealed that you received an Unclassified Felony in 1990.

The ED intends to deny your Water Operator D license application because you have been convicted of an offense that directly relates to the license that is also a violent offense as referenced in Texas Occupations Code (TOC) §§ 53.021(a)(1) and (2). The ED also considered the factors in TOC §§ 53.022 and 53.023 and this decision was based on the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring a license to engage in the occupation, the opportunity the license may offer to engage in further criminal activity of the same type as that in which you were previously involved, and the extent and nature of your past criminal activity.

It is the applicant's responsibility to provide to TCEQ evidence regarding the factors listed in TOC § 53.023(a):

- The extent and nature of your past criminal activity;
- Your age when the crime was committed;
- The amount of time that has elapsed since your last criminal activity;
- Your conduct and work activity before and after the criminal activity;
- Evidence of your rehabilitation or rehabilitative effort while incarcerated or after release;
- Evidence of your compliance with any conditions of community supervision parole, or mandatory supervision; and
- Other evidence of your fitness, including letters of recommendation.

Mr. Kirk Washington  
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October 25, 2022

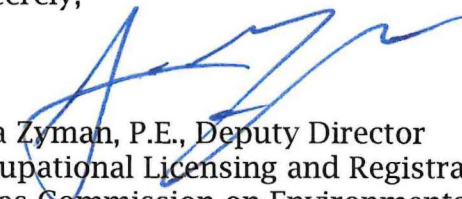
TCEQ must consider any correlation between the elements of the crime and the specific duties of the licensed occupation to determine whether a conviction directly relates to the license. In determining whether your criminal conviction directly relates to the duties and responsibilities of the licensed occupation, the ED considered the following factors:

- the nature and seriousness of the crime;
- the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- the relationship of the crime to the ability, capacity required to perform the duties and discharge the responsibilities of the licensed occupation;
- any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation

You may submit additional relevant information for the ED to consider to the address below, within 30 days of this letter, including but not limited to any evidence relating to any rehabilitation efforts you may have undergone while incarcerated, or after release, and any evidence of compliance with conditions of community supervision, parole, or mandatory supervision, in accordance with TOC § 53.023.

Executive Review Committee  
c/o Occupational Licensing  
TCEQ, MC-178  
PO Box 13087  
Austin, TX 78711-3087

Sincerely,



Jaya Zyman, P.E., Deputy Director  
Occupational Licensing and Registration Division  
Texas Commission on Environmental Quality

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 29, 2022

Mr. Kirk Washington  
31739 Summit Springs Ln.  
Spring, TX 77386

RE: Initial Application for Water Operator D License- Second and Final Notice

Dear Mr. Washington:

This second and final notice is in regard to your Water Operator D license application received by Executive Director (ED) of the Texas Commission of Environmental Quality (TCEQ) in July 2022. As part of the application review process, the ED is required to review an applicant's criminal history. The review was conducted in accordance with guidelines established by 30 Texas Administrative Code (TAC) Section (§) 30.35. Any additional information that you may have submitted in response to our initial notice on October 25, 2022, regarding your rehabilitation efforts and compliance with court ordered requirements was also considered.

The review of your application revealed that you received an Unclassified Felony in 1990. The ED intends to deny your Water Operator D license application because you have been convicted of an offense that directly relates to the license that is also a violent offense as referenced in Texas Occupations Code (TOC) §§ 53.021(a)(1) and (2). The ED also considered the factors in TOC §§ 53.022 and 53.023 and this decision was based on the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring a license to engage in the occupation, the opportunity the license may offer to engage in further criminal activity of the same type as that in which you were previously involved, and the extent and nature of your past criminal activity.

**You may request a formal hearing on the denial of your Water Operator D license application. The hearing request must be made in writing and must contain your name, address, and phone number. The Chief Clerk's Office must receive your request no later than 30 calendar days after the United States Post Office delivery date of this letter. You must submit the request to the following address:**

**Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, TX 78711-3087  
(512) 239-3311 (FAX)**

Mr. Kirk Washington  
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November 29, 2022

The formal hearing is known as a contested case hearing and is conducted by the State Office of Administrative Hearings (SOAH). The contested case hearing usually consists of a preliminary hearing and an evidentiary hearing. The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, provide an opportunity for settlement discussions, and address other matters as determined by the administrative law judge. The preliminary hearing will be held unless all timely hearing requests are withdrawn or denied or the parties agree to waive the preliminary hearing.

The evidentiary phase of the contested case hearing, to be held at a later date, will be a legal proceeding similar to a civil trial in state district court to determine whether you should be issued a Water Operator D license. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing.


If you fail to appear at the preliminary hearing or evidentiary hearing, the ED will request that the hearing be canceled and that the appeal of the ED's decision be dismissed.

SOAH's rules allow for participation by telephone or videoconference. Permission must be obtained from SOAH at least ten days before the hearing.

If you have additional questions about the hearing process, please contact Alicia Ramirez at [Alicia.Ramirez@tceq.texas.gov](mailto:Alicia.Ramirez@tceq.texas.gov) or at (512) 239-0133.

If you would like to obtain a copy of the applicable TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled "Obtaining TCEQ Rules."

Sincerely,



Jaya Zyman, P.E., Deputy Director  
Occupational Licensing and Registration Division  
Texas Commission on Environmental Quality



Kirk Washington  
31739 Summit Springs Lane  
Spring, TX 77386

December 2, 2022

Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, TX 78711-3087

TCEQ OCC

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Jaya Zyman, PE,

I would like to respectfully request a contested case hearing regarding the denial of my D water licensing application. Additionally, I request that this hearing be held in a timely manner as this license is required by TCEQ for me to continue my job.

The information requested in the denial letter dated November 29, 2022 is below.

Home address:

Kirk Washington  
31739 Summit Springs Ln.  
Spring, TX 77386

Work address:

20141 Schiel Road  
Cypress, TX 7777433

Telephone number:

832-334-6076

Sincerely,

Kirk Washington



Kirk Washington  
31739 Summit Springs Ln  
Spring, TX 77386



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TCEQ OCC

Office of The Chief Clerk  
Texas Commission of Environmental Quality  
P.O. Box 13087, MC105  
Austin, TX 78711-3087

RECEIVED

DEC 14 2022

TCEQ MAIL CENTER  
DA

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