

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2005-1999-OSS-E TCEQ ID NO.: RN103003257 CASE NO.: 27451
RESPONDENT NAME: JOSE HURTADO AND MARIA FRANCO

ORDER TYPE:

<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input checked="" type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 868 East Laramie Lane, Dallas, Dallas County

TYPE OF OPERATION: On-site sewage storage facility

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 28, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Section I, MC 169, (512) 239-4493
TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901
Respondent: Mr. Jose Hurtado and Ms. Maria Franco, 868 East Laramie Lane, Dallas, Texas 75217
Respondent's Attorney: Not represented by counsel.

CHIEF CLERK'S OFFICE
 2007 APR 17 PM 4:15
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

RESPONDENT'S NAME: JOSE HURTADO AND MARIA FRANCO
DOCKET NO.: 2005-1999-OSS-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: ___ Complaint <input checked="" type="checkbox"/> Routine ___ Enforcement Follow-up ___ Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: January 28, 2003, August 11, 2005 and October 10, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: February 28, 2003 (NOV) and November 23, 2005 (NOE)</p> <p>Background Facts:</p> <p>An EDPRP was filed on May 31, 2006. The Respondents have not filed an answer, requested a hearing, or scheduled a settlement conference.</p> <p>The Respondents in this case do not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>OSS:</p> <p>Failed to prevent the unauthorized discharge of wastewater from a failing OSSF [30 TEX. ADMIN. CODE § 285.1(a) and TEX. WATER CODE 26.121(a)].</p>	<p>Total Assessed: \$263</p> <p>Total Deferred: \$0 ___ Expedited Settlement ___ Financial Inability to Pay</p> <p>Total Due to General Revenue: \$263</p> <p>This is a Default Order. The Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: ___ Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s)</p> <p>The Respondents shall undertake the following technical requirements:</p> <p>Within 10 days:</p> <ol style="list-style-type: none"> 1. Submit certification that the OSS is in compliance; or 2. Submit certification that the sewage from the Facility is being conveyed to and treated at a permitted wastewater treatment facility.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	01-Dec-2005	Screening	05-Dec-2005	EPA Due	
	PCW	23-Feb-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Jose Hurtado and Maria Franco
Reg. Ent. Ref. No.	RN103003257
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	27451	No. of Violations	1
Docket No.	2005-1999-OSS-E	Order Type	1660
Media Program(s)	On-Site Sewage Disposal	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$250
---	-------------------	--------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$13
---------------------------	----------------	--------------------------------	-------------

Notes: The respondents received one NOV for the same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
--------------------	----	----------------	-------------------	------------

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
------------------------------------	--------------	-------------------	------------

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

Notes: The respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
-------------------------	-----------------	-------------------	------------

Total EB Amounts	\$1,254	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$263
-----------------------------	-----------------------	--------------

OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
---	--	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$263
-----------------------------	--------------

STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$263
-----------------------------------	--	-------------------------------	--------------

DEFERRAL		Reduction		Adjustment	\$0
-----------------	--	------------------	--	-------------------	------------

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

PAYABLE PENALTY	\$263
------------------------	--------------

Screening Date 05-Dec-2005 Docket No. 2005-1999-OSS-E

PCW

Respondent Jose Hurtado and Maria Franco

Policy Revision 2 (September 2002)

Case ID No. 27451

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103003257

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Pamela Campbell

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>	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	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)</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) 5%

>> **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

The respondents received one NOV for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 05-Dec-2005 Docket No. 2005-1999-OSS-E

PCW

Respondent Jose Hurtado and Maria Franco

Policy Revision 2 (September 2002)

Case ID No. 27451

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103003257

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Pamela Campbell

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 285.1(a)

Secondary Rule Cite(s) Tex. Water Code § 26.121(a)

Violation Description Failure to prevent the unauthorized discharge of wastewater, as documented during the October 10, 2005 record review. Specifically, during an investigation conducted on August 11, 2005 evidence of an unauthorized discharge from a failed on-site sewage facility was observed.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
						Percent
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.					

Adjustment -\$2,250

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One quarterly event is recommended from the record review date (October 10, 2005) to the screening date (December 5, 2005).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,254

Violation Final Penalty Total \$263

This violation Final Assessed Penalty (adjusted for limits) \$263

Economic Benefit Worksheet

Respondent Jose Hurtado and Maria Franco
Case ID No. 27451
Reg. Ent. Reference No. RN103003257
Media [Statute] On-Site Sewage Disposal
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs							
Equipment	\$5,000	18-Feb-2003	30-Aug-2006	3.5	\$59	\$1,177	\$1,236
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$100	18-Feb-2003	30-Aug-2006	3.5	\$18	n/a	\$18
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to repair/replace the OSSF, obtain a new OSSF permit, or tie-in to the City of Dallas' publicly owned wastewater treatment facility.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,100

TOTAL \$1,254

Compliance History

Customer/Respondent/Owner-Operator:	CN601545932 HURTADO, JOSE	Classification:	Rating:
Regulated Entity:	RN103003257 OSSF 868 E LARAMIE	Classification:	Site Rating:
ID Number(s):	_____		
Location:	868 E LARAMIE LN, DALLAS, TX, 75217		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	December 05, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 05, 2000 to December 05, 2005		

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

Name: Pamela Campbell Phone: 512 239-4493

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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.)

1	09/08/2005	(407207)
2	11/23/2005	(433992)

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

Date:	02/28/2003	(26061)		Classification: Moderate
Self Report?	NO			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 285, SubChapter A 285.1(a)			
Description:	Failure to prevent the unauthorized discharge of wastewater: On February 18, 2003, the investigators observed the unauthorized discharge of wastewater from a failed on-site sewage facility (OSSF) at 868 E. Laramie, Dallas, Texas.			

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

Compliance History

Customer/Respondent/Owner-Operator:	CN602950263 FRANCO, MARIA	Classification:	Rating:
Regulated Entity:	RN103003257 OSSF 868 E LARAMIE	Classification:	Site Rating:
ID Number(s):	_____		
Location:	868 E LARAMIE LN, DALLAS, TX, 75217		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	December 05, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 05, 2000 to December 05, 2005		

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

Name: Pamela Campbell Phone: 512 239-4493

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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.)

- | | | |
|---|------------|----------|
| 1 | 09/08/2005 | (407207) |
| 2 | 11/23/2005 | (433992) |

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

Date: 02/28/2003 (26061)

Self Report? NO

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 285, SubChapter A 285.1(a)

Description: Failure to prevent the unauthorized discharge of wastewater: On February 18, 2003, the investigators observed the unauthorized discharge of wastewater from a failed on-site sewage facility (OSSF) at 868 E. Laramie, Dallas, Texas.

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
JOSE HURTADO AND MARIA
FRANCO;
RN103003257**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2005-1999-OSS-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 26, TEX. HEALTH & SAFETY CODE ch. 366 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Jose Hurtado ("Mr. Hurtado") and Maria Franco ("Ms. Franco").

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

FINDINGS OF FACT

1. Mr. Hurtado and Ms. Franco own and operate an on-site sewage storage facility ("OSSF") located at 868 East Laramie Lane, Dallas, Dallas County, Texas (the "Facility")
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code. The facility is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
3. During an inspection conducted on October 10, 2005, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Mr. Hurtado and Ms. Franco failed to prevent the unauthorized discharge of wastewater from a failing OSSF.
4. Mr. Hurtado and Ms. Franco received notice of the violation on or about November 28, 2005.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement

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 Jose Hurtado and Maria Franco" (the "EDPRP") in the TCEQ Chief Clerk's office on May 31, 2006.
6. By letters dated May 31, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Hurtado and Ms. Franco with notices of the EDPRP. According to the return receipt "green cards", Mr. Hurtado and Ms. Franco received notice of the EDPRP on June 2, 2006, as evidenced by the signatures on the cards.
7. More than 20 days have elapsed since Mr. Hurtado and Ms. Franco received notice of the EDPRP, provided by the Executive Director. Mr. Hurtado and Ms. Franco 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. Hurtado and Ms. Franco are subject to the jurisdiction of the TCEQ pursuant to the TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 366 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Hurtado and Ms. Franco failed to prevent the unauthorized discharge of wastewater from a failing OSSF, in violation of 30 TEX. ADMIN. CODE § 285.1(a) and TEX. WATER CODE 26.121(a).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Hurtado and Ms. Franco 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. 7, Mr. Hurtado and Ms. Franco have failed to file a timely answer to the EDPRP, 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. Hurtado and Ms. Franco 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. Hurtado and Ms. Franco for violations of the Texas Water

violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty against Mr. Hurtado and Ms. Franco in the amount of two hundred sixty-three dollars (\$263.00) 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. Hurtado and Ms. Franco are assessed an administrative penalty in the amount of two hundred sixty-three dollars (\$263.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Hurtado's and Ms. Franco'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: Jose Hurtado and Maria Franco; Docket No. 2005-1999-OSS-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. Mr. Hurtado and Ms. Franco shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Order, Mr. Hurtado and Ms. Franco shall submit certification that the OSSF is in compliance with 30 TEX. ADMIN. CODE ch. 285, or

- b. Submit certification that the sewage from the Facility is being conveyed to and treated at a permitted wastewater treatment facility. The certification shall, include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Hurtado and Ms. Franco. Mr. Hurtado and Ms. Franco 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 Mr. Hurtado or Ms. Franco 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. Hurtado's or Ms. Franco's failure to comply is not a violation of this Order. Mr. Hurtado and Ms. Franco shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Hurtado and Ms.

Franco shall notify the Executive Director within seven days after Mr. Hurtado or Ms. Franco becomes 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 Mr. Hurtado and Ms. Franco shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hurtado and Ms. Franco 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 Mr. Hurtado or Ms. Franco if the Executive Director determines that Mr. Hurtado or Ms. Franco has 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.

Jose Hurtado and Maria Franco
DOCKET NO. 2005-1999-OSS-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ROBERT R. MOSLEY

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Robert R. Mosley. 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, I 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 Jose Hurtado and Maria Franco” (the “EDPRP”) with the Office of the Chief Clerk on May 31, 2006.

I sent the EDPRP to Mr. Hurtado and Ms. Franco at their last known address on May 31, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green cards”, Mr. Hurtado and Ms. Franco received notice of the EDPRP on June 2, 2006, as evidenced by the signature on the cards.

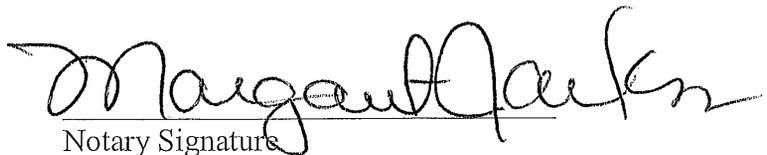
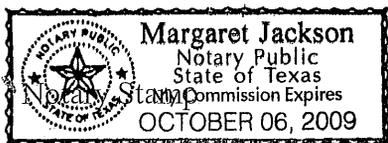
More than 20 days have elapsed since Mr. Hurtado and Ms. Franco received notice of the EDPRP. Mr. Hurtado and Ms. Franco failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Robert R. Mosley
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Robert R. Mosley, 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 10 day of July, A.D., 2006.


Notary Signature