

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-1934-MSW-E TCEQ ID: RN104567508 CASE NO.: 27349

RESPONDENT NAME: DANIEL LOPEZ AND MARICIELA CARRILLO A/K/A MARISELA LOPEZ

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Mile 4 Road and Mile 14 Road in Weslaco in Hidalgo County</p> <p>TYPE OF OPERATION: Unauthorized Municipal Solid Waste Site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 18, 2006. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Mark Curnutt, Litigation Division, MC 175, (512) 239-0624 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement, Section IV, MC 128, (512) 239-4492 TCEQ Regional Contact: Ms. Lorinda Gardner, Harlingen Regional Office, MC R-15, (956) 430-6051 Respondent: Mr. Daniel Lopez, Co-owner, Ms. Marciela Carrillo a/k/a Marisela Lopez, Co-owner, P.O. Box 880, Elsa, Texas 78543 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

A/K/A MARISELA LOPEZ
DOCKET NO: 2005-1934-MSW-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: March 18, 2005, July 25, 2005</p> <p>Date of NOV/NOE Relating to this Case: April 15, 2005 (NOV), October 26, 2005 (NOE)</p> <p>Background Facts:</p> <p>The EDPRP was filed May 1, 2006. Settlement was negotiated, the Agreed Order was signed and the first payment was made September 24, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MSW:</p> <p>Failed to prevent the disposal of municipal solid waste and the storage of more than 500 scrap tires on-site, as documented during an investigation conducted on July 25, 2005 [30 TEX. ADMIN. CODE §§ 330.5 and 328.60(a) and TEX. HEALTH & SAFETY CODE § 361.112(a)]</p>	<p>Total Assessed: \$5,250</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$150/\$5,100. The Respondent has paid \$150 of the administrative penalty. The remaining balance of \$5,100 will be paid in 34 monthly payments of \$150.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s)</p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> 1) Immediately cease disposing any additional waste at the Site. 2) Within 90 days, apply for a scrap tire storage registration or reduce the number of tires being stored on-site to 500 or less, in accordance with 30 Tex. Admin. Code § 328.60(a). 3) Within 120 days, remove all waste including waste materials buried on-site, and dispose of the wastes at an authorized facility. 4) Within 135 days, submit written certification as described below, and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	31-Oct-2005		
	PCW	14-Feb-2006	Screening	14-Nov-2005
			EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Daniel Lopez and Maricela Carrillo		
Reg. Ent. Ref. No.	RN104567508		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	27349	No. of Violations	1
Docket No.	2005-1934-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Michael Meyer
Multi-Media		EC's Team	Enforcement Team 8
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$5,000

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 \$250

Notes: One previous NOV for 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 EDPRP/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	\$89	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,525	

SUM OF SUBTOTALS 1-7 Final Subtotal \$5,250

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 \$5,250

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$5,250

DEFERRAL Reduction Adjustment \$0

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

Notes: No deferral offered for non-expedited cases.

PAYABLE PENALTY \$5,250

Screening Date	14-Nov-2005	Docket No.	2005-1934-MSW-E	PCW
Respondent	Daniel Lopez and Maricela Carrillo		Policy Revision 2 (September 2002)	
Case ID No.	27349	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN104567508			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Michael Meyer			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>)	1	5%
	Other written NOV's	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

One previous NOV for same or similar violations.

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

Screening Date	14-Nov-2005	Docket No.	2005-1934-MSW-E	PCW
Respondent	Daniel Lopez and Maricela Carrillo		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	27349	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN104567508			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Michael Meyer			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 330.5 and 328.60(a)			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 361.112(a)			
Violation Description	Failure to prevent the disposal of municipal solid waste at the site and the storage of more than 500 scrap tires on-site, as documented during an investigation conducted on July 25, 2005. Specifically, the respondents disposed of approximately five cubic yards of municipal solid waste without authorization and had approximately 1,500 to 2,000 scrap tires on their property.			
Base Penalty	\$10,000			

>> **Environmental, Property and Human Health Matrix**

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual			X	
	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.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events: 2

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

Violation Base Penalty \$5,000

Two quarterly events are recommended from the investigation date (July 25, 2005) to the date of screening (November 14, 2005).

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$89	Violation Final Penalty Total \$5,250
This violation Final Assessed Penalty (adjusted for limits) \$5,250	

Economic Benefit Worksheet

Respondent: Daniel Lopez and Maricela Carrillo
 Case ID No. 27349
 Reg. Ent. Reference No. RN104567508
 Media [Statute] Municipal Solid Waste
 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				0.0	\$0	\$0	\$0
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	\$1,525	25-Jul-2005	26-Sep-2006	1.2	\$89	n/a	\$89
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost for removing tires at one dollar per tire for approximately 1,500 tires and for removing five cubic yards of waste estimated at 0.25 tons per cubic yard for loosely compacted material times \$20 per ton. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance (September 26, 2006).

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 \$1,525

TOTAL \$89

Compliance History

Customer/Respondent/Owner-Operator: CN602811036 LOPEZ, DANIEL Classification: AVERAGE Rating: 6.000
CN602811127 CARRILLO, MARICELA

Regulated Entity: RN104567508 LOPEZ PROPERTY Classification: AVERAGE Site Rating: 6.00

ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150121

Location: Mile 4 Road and Mile 14½ Road in Weslaco, Hidalgo County Rating Date: 9/1/05 Repeat Violator: NO

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: November 18, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 18, 2000 to November 18, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michael Meyer Phone: (512) 239-4492

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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

6. Comments:

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.)

2 10/24/2005 (434835)

N/A

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

Date: 04/15/2005 (375342)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)
5B THC Chapter 361, SubChapter A 361.112[G]

Description: Failure to obtain a scrap tire storage site registration for a facility that stores more than five-hundred (500) used or scrap tires (or equivalent tire pieces or any combination thereof) on the ground.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.5[G]

Description: Failure to prevent the disposal of municipal solid waste at an unauthorized site

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
DANIEL LOPEZ AND
MARICIELA CARRILLO A/K/A
MARISELA LOPEZ
RN104567508

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1934-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Daniel Lopez and Mariciela Carrillo a/ka/ Marisela Lopez ("Mr. Lopez and Ms. Carrillo") under the authority of the TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Lopez and Ms. Carrillo, appear before the Commission and together stipulate that:

1. Mr. Lopez and Ms. Carrillo own property located at Mile 4 Road and Mile 14½ Road in Weslaco, Hidalgo County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Mr. Lopez and Ms. Carrillo agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Lopez and Ms. Carrillo are subject to the Commission's jurisdiction.
4. Mr. Lopez and Ms. Carrillo received notice of the violations alleged in Section II ("Allegations") on or about October 31, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Lopez and Ms. Carrillo of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of five thousand two hundred fifty dollars (\$5,250.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Lopez and Ms. Carrillo have paid one hundred fifty dollars (\$150.00) of the administrative penalty. The remaining balance of five thousand one hundred dollars (\$5,100.00) shall be payable in thirty-four payments of one hundred fifty dollars (\$150.00) each. The first payment shall be due 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Lopez and Ms. Carrillo fail 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, the failure of Mr. Lopez and Ms. Carrillo to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Lopez and Ms. Carrillo to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Lopez and Ms. Carrillo have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Mr. Lopez and Ms. Carrillo have not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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.

II. ALLEGATIONS

Mr. Lopez and Ms. Carrillo are alleged to have violated 30 TEX. ADMIN. CODE §§ 330.5 and 328.60(a) and TEX. HEALTH & SAFETY CODE § 361.112(a), by failing to prevent the disposal of municipal solid waste and the storage of more than 500 scrap tires on-site, as documented during an investigation conducted on July 25, 2005. Specifically, Mr. Lopez and Ms. Carrillo are responsible for the unauthorized disposal of approximately five cubic yards of municipal

solid waste and approximately 1,500 to 2,000 scrap tires being stored on their property without authorization.

III. DENIALS

Mr. Lopez and Ms. Carrillo generally deny each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Lopez and Ms. Carrillo pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Lopez's and Ms. Carrillo's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action 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: Daniel Lopez and Mariciela Carrillo, Docket No. 2005-1934-MSW-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. It is further ordered that Mr. Lopez and Ms. Carrillo shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Mr. Lopez and Ms. Carrillo shall cease disposing any additional waste at the Site;
 - b. Within 90 days after the effective date of this Agreed Order, Mr. Lopez and Ms. Carrillo shall apply for a scrap tire storage registration or reduce the number of tires being stored on-site to 500 or less, in accordance with 30 TEX. ADMIN. CODE § 328.60(a);
 - c. Within 120 days after the effective date of this Agreed Order, Mr. Lopez and Ms. Carrillo shall remove all waste including waste materials buried on-site, and dispose of the wastes at an authorized facility; and

- d.. Within 135 days after the effective date of this Agreed Order, Mr. Lopez and Ms. Carrillo shall submit written certification as described below, and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c.

The certification shall 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 128
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Lorinda Gardner
Manager, Waste Section
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Lopez and Ms. Carrillo. Mr. Lopez and Ms. Carrillo are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site referenced in this Agreed Order.
4. If Mr. Lopez and Ms. Carrillo fail 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, Mr. Lopez's and Ms. Carrillo's failure to comply is not a violation of this Agreed Order. Mr. Lopez and Ms. Carrillo shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Lopez and Ms. Carrillo shall notify the Executive Director within seven days after Mr. Lopez

and Ms. Carrillo become 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 Mr. Lopez and Ms. Carrillo shall be made in writing to the Executive Director. Extensions are not effective until Mr. Lopez and Ms. Carrillo receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Lopez and Ms. Carrillo in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 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 the Order to Mr. Lopez and Ms. Carrillo, or three days after the date on which the Commission mails notice of the Order to Mr. Lopez and Ms. Carrillo, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Daniel Lopez and Mariciela Carrillo a/k/a Marisela Lopez
DOCKET NO. 2005-1934-MSW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

1/12/07
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 the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

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

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

[Signature]
Signature

1-09-07
Date

Daniel Lopez
Name (Printed or typed)
Authorized representative of Daniel Lopez

owner
Title

[Signature]
Signature

1-09-07
Date

Marisela Lopez
Name (Printed or typed)
Authorized representative of Mariciela Carrillo

owner
Title