

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0377-OSS-E TCEQ ID NO.: RN104298245 CASE NO.: 28962
RESPONDENT NAME: MARIO RAMOS AND OLGA RAMOS

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 508 East Carolyn Street, Hebbbronville, Jim Hogg County

TYPE OF OPERATION: On-site sewage facility

SMALL BUSINESS: Yes No

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

INTERESTED PARTIES: Jim Hogg County Water Control and Improvement District No. 2 has received complaints and expressed an interest in this matter. They have not indicated a desire to appear or comment at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 13, 2007. 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. Catherine Albrecht, Water Enforcement Section, MC R-12, (713) 767-3672

TCEQ Regional Contact: Ms. Irene Casares, Harlingen Regional Office, MC R-15, (956) 430-6025

Respondent: Mr. Mario Ramos and Ms. Olga Ramos, P.O. Box 921, Hebbbronville, Texas 78361

Respondent's Attorney: Not represented by counsel.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: June 2, 2004, January 24, 2005, February 7, 2005 and March 6, 2006</p> <p>Dates of NOVs/NOEs Relating to this Case: June 21, 2004 and February 11, 2005 (NOVs) and March 8, 2006 (NOE)</p> <p>Background Facts:</p> <p>An EDPRP was filed on August 22, 2006. The Respondents received notice of the EDPRP on or about August 28, 2006. The Respondents have not filed an answer, requested a hearing or scheduled a settlement conference. The penalty is being assessed jointly because the Respondents are joint owners and are married.</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 repair the malfunctioning Facility. Specifically, the TCEQ investigator documented on January 24, 2005 that sewage had been discharged from the septic tank onto the ground surface [30 TEX. ADMIN. CODE § 285.70 and TEX. HEALTH & SAFETY CODE § 366.017(b)]</p>	<p>Total Assessed: \$688</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$688</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: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision</p> <p>Within 30 days, submit written certification of the completion of their connection to the Jim Hogg Water District wastewater collection system and the closure of the abandoned septic tank.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	13-Mar-2006	Screening	04-Apr-2006	EPA Due	
	PCW	05-Sep-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mario and Olga Ramos
Reg. Ent. Ref. No.	RN104298245
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	28962	No. of Violations	1
Docket No.	2006-0377-OSS-E	Order Type	Findings
Media Program(s)	On-Site Sewage Disposal	Enf. Coordinator	Catherine Albrecht
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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 10% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	\$949	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,600	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0% Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 04-Apr-2006

Docket No. 2006-0377-OSS-E

PCW

Respondent Mario and Olga Ramos

Policy Revision 2 (September 2002)

Case ID No. 28962

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104298245

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

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>)	2	10%
	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) 10%

>> **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 respondent has two NOV's for same or similar violations at this facility during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 04-Apr-2006

Docket No. 2006-0377-OSS-E

PCW

Respondent Mario and Olga Ramos

Policy Revision 2 (September 2002)

Case ID No. 28962

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104298245

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 285.70

Secondary Rule Cite(s) Tex. Health & Safety Code § 366.017(b)

Violation Description Failure to repair the malfunctioning OSSF. Specifically, the TCEQ investigator documented on February 7, 2005, that sewage had been discharged from the septic tank to the ground surface at the rear of the property.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to repair the OSSF resulted in the exposure of a significant amount of contaminants with the discharge of raw sewage from the septic tank.

Adjustment -\$1,875

Base Penalty Subtotal \$625

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$625

One monthly event is recommended from the investigation completion date of March 6, 2006 to the screening date of April 4, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$949

Violation Final Penalty Total \$688

This violation Final Assessed Penalty (adjusted for limits) \$688

Economic Benefit Worksheet

Respondent Mario and Olga Ramos
 Case ID No. 28962
 Reg. Ent. Reference No. RN104298245
 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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	02-Jun-2004	01-Dec-2006	2.5	\$42	\$833	\$875
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	\$600	02-Jun-2004	01-Dec-2006	2.5	\$75	n/a	\$75
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs of installing a residential lift station and connecting the residence to the Jim Hogg Water District wastewater collection system is \$5,000 and for payment of the monthly wastewater disposal fees based on \$20 per month. Date required is the investigation date first documenting OSSF failures. Final date is the projected date of compliance.

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 **\$5,600** TOTAL **\$949**

Compliance History

Customer/Respondent/Owner-Operator: CN602643942 RAMOS, MARIO & OLGA Classification: Rating:
Regulated Entity: RN104298245 OSSF AT 508(506) EAST Classification: Site Rating:
CAROLYN ST
ID Number(s):
Location: 508(506) E CAROLYN ST, HEBBRONVILLE, JIM HOGG COUNTY
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: April 05, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 05, 2001 to April 05, 2006
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

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 |

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 02/11/2005 (350396)

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

Date: 06/21/2004 (276800)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 285, SubChapter G 285.70(1)
30 TAC Chapter 285, SubChapter G 285.70[G]
Description: Failure to maintain the sewerage system.

Date: 02/11/2005 (350396)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 285, SubChapter G 285.70(1)
30 TAC Chapter 285, SubChapter G 285.70[G]
Description: Failure to maintain the sewerage system.

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
AGAINST MARIO RAMOS AND
OLGA RAMOS;
RN104298245

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0377-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 ch. 7, 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 respondent. The respondents made the subject of this Order Mario Ramos and Olga Ramos ("Mr. and Mrs. Ramos").

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

FINDINGS OF FACT

1. Mr. and Mrs. Ramos own and operate an on-site sewage facility located at 508 East Carolyn Street, Hebbronville, Jim Hogg County, Texas (the "Facility").
2. The facility is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
3. During an inspection on March 6, 2006, a TCEQ Harlingen Regional Office investigator documented that Mr. and Mrs. Ramos failed to repair the malfunctioning Facility. Specifically, the TCEQ investigator previously documented on February 7, 2005 that sewage had been discharged from the septic tank onto the ground surface.
4. Mr. and Mrs. Ramos received notice of the violation on or about March 8, 2006.
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 Mario Ramos and Olga Ramos" (the "EDPRP") in the TCEQ Chief Clerk's office on August 22, 2006.

6. By letters dated August 22, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. and Mrs. Ramos with notice of the EDPRP. The United States Postal Service returned the wrappers sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Ramos and Mrs. Ramos received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. and Mrs. Ramos received notice of the EDPRP, provided by the Executive Director. Mr. and Mrs. Ramos 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. and Mrs. Ramos are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 366 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. and Mrs. Ramos failed to repair the malfunctioning Facility, in violation of 30 TEX. ADMIN. CODE § 285.70 and TEX. HEALTH & SAFETY CODE § 366.017(b).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. and Mrs. Ramos with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, Mr. and Mrs. Ramos 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. and Mrs. Ramos 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. and Mrs. Ramos for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of six hundred eighty-eight dollars (\$688.00) 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. and Mrs. Ramos are assessed an administrative penalty in the amount of six hundred eighty-eight dollars (\$688.00) for violations of TEX. HEALTH & SAFETY CODE ch. 366 and rules of the TCEQ. The payment of this administrative penalty and Mr. and Mrs. Ramos'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: Mario Ramos and Olga Ramos; Docket No. 2006-0377-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. and Mrs. Ramos shall, within 30 days after the effective date of this Order, submit written certification of the completion of their connection to the Jim Hogg Water District wastewater collection system and the closure of the abandoned septic tank. The certification shall include detailed supporting documentation including 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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

with a copy to:

Irene Casares
Manager, Water Section
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

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. and Mrs. Ramos.
5. If Mr. and Mrs. Ramos 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, Mr. and Mrs. Ramos's failure to comply is not a violation of this Order. Mr. and Mrs. Ramos shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. and Mrs. Ramos shall notify the Executive Director within seven days after Mr. and Mrs. Ramos 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 Mr. and Mrs. Ramos shall be made in writing to the Executive Director. Extensions are not effective until Mr. and Mrs. Ramos 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. and Mrs. Ramos if the Executive Director determines that Mr. and Mrs. Ramos 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ROBERT R. MOSLEY

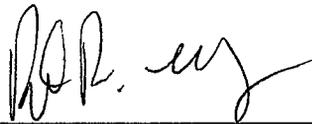
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“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 Mario Ramos and Olga Ramos” (the “EDPRP”) with the Office of the Chief Clerk on August 22, 2006.

I sent the EDPRP to Mr. and Mrs. Ramos at their last known address on August 22, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrappers sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. and Mrs. Ramos received notice of the EDPRP. Mr. and Mrs. Ramos 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 20 day of January A.D., 2007.

JACQUELINE FRANCES BUCHHEIT
Notary Public, State of Texas
My Commission Expires
MARCH 07, 2007
~~Notary without Bond~~

Notary Signature

Notary Stamp