

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2241-MSW-E TCEQ ID: RN105093363 CASE NO.: 31942

RESPONDENT NAME: GEORGE ZAMBRANO DBA ZAMBRANO ROOFING AND SHEET METAL CO.

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 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: 538 County Road 440 near Alice, Jim Wells County</p> <p>TYPE OF OPERATION: unauthorized municipal solid waste disposal site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint has been received, alleging the unauthorized disposal of roofing material. There is no record of additional pending enforcement actions regarding this facility</p> <p>INTERESTED PARTIES: One complaint has been received but the complainant has not indicated a desire to protest this action or speak at Agenda. 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 June 23, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933 TCEQ Regional Contact: Mr. Brad Genzer, Corpus Regional Office, MC R-14, (361) 825-3106 Respondent: Mr. George Zambrano, Owner, Zambrano Roofing and Sheet Metal Co., 1702 South Reynolds, Alice, Texas 78332 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 3, 2006</p> <p>Dates of Investigation Relating to this Case: October 18, 2006</p> <p>Date of NOE Relating to this Case: November 21, 2006</p> <p>Background Facts:</p> <p>The EDPRP was filed and mailed to the Respondent on July 13, 2007. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Respondent has not filed an answer, requested a hearing or scheduled a settlement conference.</p> <p>Current Compliance Status: The Respondent is still not in compliance.</p> <p>MSW Failed to properly dispose of municipal solid waste at an unauthorized facility [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$5,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$5,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</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 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 Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease accepting or disposing of any additional municipal solid waste at the Site. 2. Within 60 days, remove all municipal solid waste, including buried wastes, and dispose of the wastes at an authorized facility. 3. Within 75 days, submit written certification to demonstrate compliance with these Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	28-Nov-2006	Screening	5-Dec-2006	EPA Due	
	PCW	21-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	George Zambrano dba Zambrano Roofing and Sheet Metal Co.
Reg. Ent. Ref. No.	RN105093363
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	31942	No. of Violations	1	
Docket No.	2006-2241-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Clinton Sims	
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
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: The Respondent has no record of any previous NOVs or Orders at this site in the past five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$1,205	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$25,285	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$5,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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DEFERRAL	0% Reduction	Adjustment	
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral due to nonexpedited case.

PAYABLE PENALTY	\$5,000
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Screening Date 5-Dec-2006

Docket No. 2006-2241-MSW-E

PCW

Respondent George Zambrano dba Zambrano Roofing and Sheet Me

Policy Revision 2 (September 2002)

Case ID No. 31942

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN105093363

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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) 0%

>> Repeat Violator (Subtotal 3)

No

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 no record of any previous NOV's or Orders at this site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 5-Dec-2006

Docket No. 2006-2241-MSW-E

PCW

Respondent George Zambrano dba Zambrano Roofing and Sheet Metal Co.

Policy Revision 2 (September 2002)

Case ID No. 31942

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN105093363

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to properly dispose of municipal solid waste at an authorized facility, as documented during an investigation conducted on October 18, 2006. Specifically, Zambrano disposed approximately 1,945 cubic yards of municipal solid waste including roofing debris (i.e. shingles, tile, lumber, roofing tar, gravel), metal debris (i.e. metal siding), used cooking oil (contained in 5-gallon buckets/totes), a small amount of tires and various other types of debris including household materials (i.e. microwave oven, plastic toys, television, computer equipment) at the unauthorized Site. The municipal solid waste was disposed at two different areas within the 76 acre tract of land. The first area dimensions measured approximately 120 feet x 140 feet. The second area, in which municipal solid waste was placed into a pit and covered, measured approximately 45 feet x 21 feet.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

49 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended based on the October 18, 2006 investigation to the December 5, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,205

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent: George Zambrano dba Zambrano Roofing and Sheet Metal Co.

Case ID No. 31942

Reg. Ent. Reference No. RN105093363

Media: 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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$25,285	18-Oct-2006	1-Oct-2007	1.0	\$1,205	n/a	\$1,205
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove the municipal solid waste and dispose of it at an approved municipal solid waste disposal site (\$13 per cubic yard). Date Required is the investigation date and Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$25,285

TOTAL

\$1,205

Compliance History

Customer/Respondent/Owner-Operator: CN603113945 George Zambrano Classification: Rating:
Regulated Entity: RN105093363 Zambrano Roofing and Sheet Metal Co. Classification: AVERAGE BY Site Rating: 3.01
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER UNA455140033
Location: 538 COUNTY ROAD 440, ALICE, TX, 78332 Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: December 29, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 29, 2001 to December 29, 2006

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

Name: Clinton Sims Phone: 512-239-6933

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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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
GEORGE ZAMBRANO DBA
ZAMBRANO ROOFING AND
SHEET METAL CO.,
RN105093363

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-2241-MSW-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. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is George Zambrano dba Zambrano Roofing and Sheet Metal Co. ("Mr. Zambrano").

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

FINDINGS OF FACT

1. Mr. Zambrano operates an unauthorized municipal solid waste disposal site located at 538 County Road 440 near Alice, Jim Wells County, Texas (the "Site").
2. The Site involves the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection on October 18, 2006, a TCEQ Corpus Christi Regional Office investigator documented that Mr. Zambrano failed to properly dispose of municipal solid waste at an unauthorized facility. Specifically, Mr. Zambrano disposed of approximately 1,945 cubic yards of municipal solid waste including roofing debris (i.e. shingles, tile, lumber, roofing tar, gravel), metal debris (i.e. metal siding), used cooking oil (contained in 5-gallon buckets/totes), a small amount of tires and various other types of debris including household materials (i.e. microwave oven, plastic toys, television, computer equipment) at the Site. The municipal solid waste was disposed of at two different areas within the 76 acre tract of land. The first area dimensions measured approximately 120 feet x 140 feet. The second area, in which municipal solid waste was placed into a pit and covered, measured approximately 45 feet x 21 feet.

4. Mr. Zambrano received notice of the violation on or about November 25, 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 George Zambrano dba Zambrano Roofing and Sheet Metal Co." (the "EDPRP") in the TCEQ Chief Clerk's office on July 13, 2007.
6. By letter dated July 13, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Zambrano with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Zambrano received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Zambrano received notice of the EDPRP, provided by the Executive Director. Mr. Zambrano 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. Zambrano is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Zambrano failed to properly dispose of municipal solid waste at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Zambrano 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. Zambrano has 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. Zambrano 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. Zambrano 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 five thousand dollars (\$5,000.00) 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. Zambrano is assessed an administrative penalty in the amount of five thousand dollars (\$5,000.00) for violations of TEX. HEALTH & SAFETY CODE ch. 361 and rules of the TCEQ. The payment of this administrative penalty and Mr. Zambrano'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: George Zambrano dba Zambrano Roofing and Sheet Metal Co.; Docket No. 2006-2241-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. Mr. Zambrano shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Zambrano shall cease accepting or disposing of any additional municipal solid waste at the Site;

- b. Within 60 days after the effective date of this Order, Mr. Zambrano shall remove all municipal solid waste, including buried wastes, and dispose of the wastes at an authorized facility; and
- c. Within 75 days after the effective date of the Commission Order, Mr. Zambrano shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b. 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 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Brad Genzer, Waste Section Manager
Texas Commission on Environmental Quality
Corpus Christi Regional Office
6300 Ocean Drive, Unit 5839
Corpus Christi, Texas 78412-5839

- 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. Zambrano. Mr. Zambrano is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.

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

George Zambrano dba Zambrano Roofing and Sheet Metal Co.
DOCKET NO. 2006-2241-MSW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARY E. COLEMAN

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

“My name is Mary E. Coleman. 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 George Zambrano dba Zambrano Roofing and Sheet Metal Co.” (the “EDPRP”) with the Office of the Chief Clerk on July 13, 2007.

I sent the EDPRP to Mr. Zambrano at his last known address on July 13, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper 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. Zambrano received notice of the EDPRP. Mr. Zambrano failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

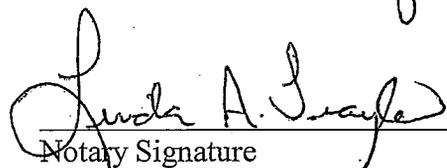


Mary E. Coleman
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Mary E. Coleman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 1st day of May, A.D., 2008.

Notary Stamp



Notary Signature

