

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-0579-AIR-E TCEQ ID NO.: RN100816693 CASE NO.: 33147  
RESPONDENT NAME: FRANCISCO TERRAZAS DBA SAN JOSE CUSTOM SHUTTERS**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input checked="" 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 type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 3780 North Zaragosa Road, El Paso, El Paso County</p> <p><b>TYPE OF OPERATION:</b> Spray paint booth</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 17, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>                  TCEQ Attorney: Ms. Anna Cox, Litigation Division, MC 175, (512) 239-0974                  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873                  TCEQ Enforcement Coordinator: Ms. Lindsey Jones, Air Enforcement Section, MC 149, (512) 239-4930                  TCEQ Regional Contact: Mr. Kevin Smith, El Paso Regional Office, MC R-6, (915) 834-4952                  Respondent: Mr. Francisco Terrazas, Owner, 3780 North Zaragosa Road, El Paso, Texas 79938                  Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

**RESPONDENT NAME: FRANCISCO TERRAZAS DBA SAN JOSE CUSTOM SHUTTERS  
DOCKET NO.: 2007-0579-AIR-E**

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> November 17, 2006</p> <p><b>Date of NOE Relating to this Case:</b> March 5, 2007</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed and mailed on August 17, 2007. The Respondent has not filed an answer.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>AIR:</b></p> <p>Failed to obtain a permit or meet the conditions of a permit by rule and operating a spray booth without authorization [TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110].</p>	<p><b>Total Assessed:</b> \$2,200</p> <p><b>Total Due to General Revenue:</b> \$2,200</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><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, submit an administratively complete permit application or demonstrate that the Plant has satisfied the conditions for a Permit by Rule.</li> <li>2. Respond completely and adequately to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing.</li> <li>3. Within 180 days, submit written certification that authorization to construct and operate a source of air emissions has been obtained, or that all unauthorized operations have ceased until such time that appropriate authorization is obtained.</li> <li>4. Within 195 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	12-Mar-2007	<b>Screening</b>	5-Apr-2007	<b>EPA Due</b>	
	<b>PCW</b>	3-Jul-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Francisco Terrazas dba San Jose Custom Shutters
<b>Reg. Ent. Ref. No.</b>	RN100816693
<b>Facility/Site Region</b>	6-El Paso
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33147	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0579-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air Quality	<b>Enf. Coordinator</b>	Lindsey Jones
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## 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** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

**Notes**

**Subtotal 6**

0% Enhancement\*  
\*Capped at the Total EB \$ Amount

Total EB Amounts	\$72
Approx. Cost of Compliance	\$1,100

**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** **Adjustment**

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

**Notes**

Reduction  Reduction

**PAYABLE PENALTY**

Screening Date 5-Apr-2007

Docket No. 2007-0579-AIR-E

PCW

Respondent Francisco Terrazas dba San Jose Custom Shutters

Policy Revision 2 (September 2002)

Case ID No. 33147

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100816693

Media [Statute] Air Quality

Enf. Coordinator Lindsey Jones

### 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)	2	10%
	Other written NOVs		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) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced due to two previous same or similar NOVs.

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

Screening Date 5-Apr-2007

Docket No. 2007-0579-AIR-E

PCW

Respondent Francisco Terrazas dba San Jose Custom Shutters

Policy Revision 2 (September 2002)

Case ID No. 33147

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100816693

Media [Statute] Air Quality

Enf. Coordinator Lindsey Jones

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.110 and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain a permit or meet the conditions of a permit by rule. Specifically, the Respondent is operating a spray paint booth without authorization, as documented in an investigation on November 17, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
100% of the rule requirement was not met.					

Adjustment

Violation Events

Number of Violation Events  Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** Francisco Terrazas dba San Jose Custom Shutters  
**Case ID No.** 33147  
**Reg. Ent. Reference No.** RN100816693  
**Media** Air Quality  
**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
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	17-Nov-2006	4-Nov-2007	1.0	\$3	\$64	\$68
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	17-Nov-2006	4-Nov-2007	1.0	\$5	n/a	\$5
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to modify the existing paint booth to vertically vent fumes and submit an application for a permit by rule. Date required is the date of the investigation and the final date is the estimated 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

\$1,100

TOTAL

\$72

# Compliance History

Customer/Respondent/Owner-Operator: CN603057969 TERRAZAS, FRANCISCO Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN100816693 SAN JOSE CUSTOM SHUTTERS Classification: AVERAGE Site Rating: 1.50

ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1557F  
AIR NEW SOURCE PERMITS REGISTRATION 79352

Location: 3780 N ZARAGOZA RD, EL PASO, TX, 79938 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 06 - EL PASO

Date Compliance History Prepared: March 14, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 14, 2002 to March 14, 2007

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

Name: Lindsey Jones Phone: 512-239-4930

## 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? Yes
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? San Jose Custom Shutters
5. When did the change(s) in ownership occur? 07/05/2006

## 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 12/20/2006 (531525)  
2 07/24/2006 (487720)

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

Date: 06/02/2006 (461062)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)

Description: Failure to obtain authorization to conduct painting operations

Date: 10/13/2006 (510187)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(6)(B)

5C THC Chapter 382, Subchapter D 382.085(b)

Description: Failure to operate paint booth according to 30 TAC 106.433, Permit By Rule, Surface Coat Facility.

- 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  
FRANCISCO TERRAZAS DBA  
SAN JOSE CUSTOM SHUTTERS;  
RN100816693

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2007-0579-AIR-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. 382, 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 Francisco Terrazas dba San Jose Custom Shutters ("Mr. Terrazas").

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

**FINDINGS OF FACT**

1. Mr. Terrazas owns and operates a spray paint booth located at 3780 North Zaragosa Road, El Paso, El Paso County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on November 17, 2006, a TCEQ El Paso Regional Office investigator documented that Mr. Terrazas failed to obtain a permit or meet the conditions of a permit by rule. Specifically, Mr. Terrazas is operating a spray paint booth without authorization.
4. Mr. Terrazas received notice of the violation on or about March 5, 2007.
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 Francisco Terrazas dba San Jose Custom Shutters" (the "EDPRP") in the TCEQ Chief Clerk's office on August 17, 2007.

6. By letter dated August 17, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Terrazas with notice of the EDPRP. According to the return receipt "green card," Mr. Terrazas received notice of the EDPRP on August 21, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Terrazas received notice of the EDPRP, provided by the Executive Director. Mr. Terrazas 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. Terrazas is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Terrazas failed to obtain a permit or meet the conditions of a permit by rule. Specifically, Mr. Terrazas is operating a spray paint booth without authorization, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Terrazas 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. Terrazas 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. Terrazas 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. Terrazas 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 two thousand two hundred dollars (\$2,200.00) 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. Terrazas is assessed an administrative penalty in the amount of two thousand two hundred dollars (\$2,200.00) for violations of the TEX. WATER CODE ch.7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Terrazas'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: Francisco Terrazas dba San Jose Custom Shutters; Docket No. 2007-0579-AIR-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. Terrazas shall undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Order, Mr. Terrazas shall submit an administratively complete permit application or demonstrate that the Plant has satisfied the conditions for a Permit by Rule, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088.

- b. If a permit application is submitted, then Mr. Terrazas shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the

permit application within 30 days after the date of such requests, or by any other deadline specified in writing;

- c. Within 180 days after the effective date of this Order, Mr. Terrazas shall submit written certification that authorization to construct and operate a source of air emissions has been obtained, or that all unauthorized operations have ceased until such time that appropriate authorization is obtained; and
- d. Within 195 days after the effective date of this Order, Mr. Terrazas shall submit written certification and detailed supporting documentation, including photographs, receipts, and 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.”

Mr. Terrazas shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. 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:

Kevin Smith, Air Section Manager  
Texas Commission on Environmental Quality  
El Paso Regional Office  
401 East Franklin Ave, Suite 560  
El Paso, Texas 79901-1212.

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. Terrazas. Mr. Terrazas is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If Mr. Terrazas 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. Terrazas's failure to comply is not a violation of this Order. Mr. Terrazas shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Terrazas shall notify the Executive Director within seven days after Mr. Terrazas 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. Terrazas shall be made in writing to the Executive Director. Extensions are not effective until Mr. Terrazas 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. Terrazas if the Executive Director determines that Mr. Terrazas 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.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF ANNA M. COX**

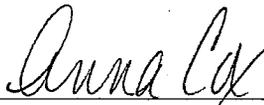
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Anna M. Cox. 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, 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 Francisco Terrazas dba San Jose Custom Shutters” (the “EDPRP”) was filed with the Office of the Chief Clerk on August 17, 2007.

The EDPRP was mailed to Mr. Terrazas at his last known address on August 17, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Terrazas received notice of the EDPRP on August 21, 2007, as evidenced by the signature on the card.

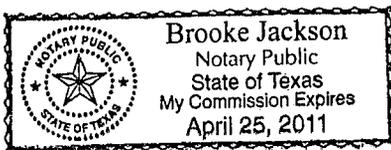
More than 20 days have elapsed since Mr. Terrazas received notice of the EDPRP. Mr. Terrazas failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



\_\_\_\_\_  
Anna M. Cox, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Cox, 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 1<sup>st</sup> day of October, A.D., 2007.



\_\_\_\_\_  
Notary Signature