

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1380-MLM-E TCEQ ID: RN105074306 and RN105574842 CASE NO.: 36429

RESPONDENT NAME: GILBERT GARCIA DBA ABC SANDBLASTING

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 checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

SITE WHERE VIOLATION(S) OCCURRED: 1409 Wathen Avenue, Austin, Travis County (the "Wathen Site"); 11105 Cameron Road, Austin, Travis County (the "Cameron Site")

TYPE OF OPERATION: sandblasting business

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that the Respondent was conducting open sandblasting on metal objects closer than 300-500 feet to neighboring properties at the Cameron Site.

INTERESTED PARTIES: The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired October 5, 2009. No comments were received.

CONTACTS AND MAILING LIST:

- TCEQ Attorney:** Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
- TCEQ Enforcement Coordinator:** Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492
- TCEQ Regional Contact:** Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 239-2929
- Respondent:** Mr. Gilbert Garcia, Owner, ABC Sandblasting, 308 Cumberland, Austin, TX 78705
- Respondent's Attorney:** Not represented by counsel on this enforcement matter.

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: April 18, 2008</p> <p>Dates of Investigation Relating to this Case: March 20, 2008 (Wathen Site); May 16, 2008 (Cameron Site)</p> <p>Dates of NOEs Relating to this Case: May 8, 2008 (Wathen Site); July 30 2008 (Cameron Site)</p> <p>Background Facts: The EDPRP was filed April 29, 2009, and mailed to the Respondent 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. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent ceased operations at the Cameron Site on July 29, 2008. The Respondent has not yet submitted documentation certifying compliance with the technical requirements.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to prevent the disposal of municipal hazardous waste at the Wathen Site in a manner which endangers human health and the environment [30 TEX. ADMIN. CODE § 330.15(a)(3)]. Failed to prevent the release of air contaminants which interfered with the normal use and enjoyment of property at the Wathen Site [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to prevent the disposal of municipal solid waste at the Cameron Site in a manner which endangers human health and the environment [30 TEX. ADMIN. CODE § 330.15(a)(3)]. Failed to obtain a standard exemption prior to conducting sandblasting activity at the Cameron Site [30 TEX. ADMIN. CODE § 116.110(a)(4) and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)]. 	<p>Total Assessed: \$9,000</p> <p>Total Deferred: \$0</p> <p>___ Expedited Order ___ Financial Inability to Pay ___ SEP Conditional Offset</p> <p>Total Due to General Revenue: \$9,000</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 Order.</p> <p>Site Compliance History Classification (both Sites) ___ High <input checked="" type="checkbox"/> Average ___ Poor</p> <p>Person Compliance History Classification (both Sites) ___ High <input checked="" type="checkbox"/> Average ___ Poor</p> <p>Major Source: ___ 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"> Within 30 days: <ol style="list-style-type: none"> Remove and/or submit documentation to demonstrate that all spent sandblast material has been removed from the Sites and disposed of at an authorized site; Develop and implement procedures at the Wathen Site to prevent the recurrence of nuisance conditions from sandblasting activity. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	4-Aug-2008	Screening	25-Aug-2008	EPA Due	
	PCW	17-Mar-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Gilbert Garcia dba ABC Sandblasting
Reg. Ent. Ref. No.	RN105074306
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36429	No. of Violations	2
Docket No.	2008-1380-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$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 Enhancement *Subtotals 2, 3, & 7*

Notes

Culpability Enhancement *Subtotal 4*

Notes

Good Faith Effort to Comply Total Adjustments *Subtotal 5*

Economic Benefit Enhancement* *Subtotal 6*

Total EB Amounts **Capped at the Total EB \$ Amount*
Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

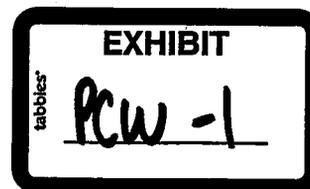
STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL 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 25-Aug-2008

Docket No. 2008-1380-MLM-E

PCW

Respondent Gilbert Garcia dba ABC Sandblasting

Policy Revision 2 (September 2002)

Case ID No. 36429

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105074306

Media [Statute] Air

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 (number of NOV's meeting criteria)	0	0%
	Other written NOV's	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)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 25-Aug-2008	Docket No. 2008-1380-MLM-E	PCW		
Respondent Gilbert Garcia dba ABC Sandblasting		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36429		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN105074306				
Media [Statute] Air				
Enf. Coordinator Michael Meyer				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 330.15(a)(3)			
Violation Description	<p>Failed to prevent the disposal of municipal hazardous waste in a manner which endangers human health and the environment, as documented during an investigation conducted on March 20, 2008. Specifically, samples of spent sandblast material were collected from the front steps and the base of the northeast corner of the home located at 1409 Wathen Avenue in Austin, Travis County. The samples were analyzed for Toxicity Characteristic Leaching Procedure ("TCLP") for lead and measured 39.3 milligrams per liter ("mg/L") and 29.6, respectively, in excess of the EPA Regulatory limit considered hazardous for toxicity of 5.0 mg/L.</p>			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual	<input type="text" value="x"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix				
	Falsification	Major Moderate Minor	Percent <input type="text" value="0%"/>	
Matrix Notes	Human health and the environment has been exposed to significant amounts of pollutants which do not exceed protective levels.			
	Adjustment	<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="2"/>	Number of violation days	
		<input type="text" value="158"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$5,000"/>	
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="text" value="x"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	Two quarterly events are recommended from the March 20, 2008 investigation to the August 25, 2008 screening date.			
Good Faith Efforts to Comply				
	<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>	
	Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="text" value="x"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	<input type="text" value="\$5,000"/>		
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount	<input type="text" value="\$1"/>		Violation Final Penalty Total <input type="text" value="\$5,000"/>	
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,000"/>			

Economic Benefit Worksheet

Respondent Gilbert Garcia dba ABC Sandblasting
Case ID No. 36429
Reg. Ent. Reference No. RN105074306
Media Air
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$25	20-Mar-2008	31-Mar-2009	1.03	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the spent sandblast material from the site. The Date Required is the March 20, 2008 investigation and the Final Date is the estimated compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$1

<p>Screening Date 25-Aug-2008</p> <p>Respondent Gilbert Garcia dba ABC Sandblasting</p> <p>Case ID No. 36429</p> <p>Reg. Ent. Reference No. RN105074306</p> <p>Media [Statute] Air</p> <p>Enf. Coordinator Michael Meyer</p> <p>Violation Number <input type="text" value="2"/></p> <p>Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 101.4 and Tex. Health and Safety Code § 382.085(b)"/></p> <p>Violation Description <input type="text" value="Failed to prevent the release of air contaminants which interfered with the normal use and enjoyment of property, as documented during an investigation conducted on March 20, 2008. Specifically, the investigator observed that sandblasting activity conducted by the Respondent at 1409 Wathen Avenue in Austin, Travis County was discharging contaminants into the air in such a manner as to interfere with the normal use and enjoyment of property."/></p>	<p>Docket No. 2008-1380-MLM-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision June 12, 2008</p>																				
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	Harm																				
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	Before NOV	NOV to EDPRP/Settlement Offer																			
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Ordinary	<input type="text"/>	<input type="text"/>																			
N/A	x	(mark with x)																			
<p>Violation Subtotal <input type="text" value="\$1,000"/></p>																					
<p>Economic Benefit (EB) for this violation Statutory Limit Test</p>																					
<p>Estimated EB Amount <input type="text" value="\$52"/></p>	<p>Violation Final Penalty Total <input type="text" value="\$1,000"/></p>																				
<p>This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/></p>																					

Economic Benefit Worksheet

Respondent: Gilbert Garcia dba ABC Sandblasting
Case ID No.: 36429
Reg. Ent. Reference No.: RN105074306
Media: Air
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	20-Mar-2008	31-Mar-2009	1.03	\$52	n/a	\$52

Notes for DELAYED costs
 Develop and implement procedures to prevent the recurrence of nuisance conditions created as a result of sandblasting activity. The Date Required is the March 20, 2008 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$1,000** **TOTAL** **\$52**

Compliance History

Customer/Respondent/Owner-Operator:	CN603102443 GILBERT GARCIA	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105074306 ABC SANDBLASTING	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	_____		
Location:	1409 WATHEN AVE, AUSTIN, TX, 78703	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	September 12, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 13, 2003 to September 12, 2008		

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

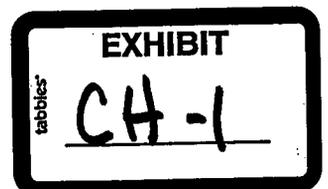
Name: Michael Meyer Phone: (52) 239-4492

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
.....
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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





Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	4-Aug-2008	Screening	25-Aug-2008	EPA Due	
	PCW	17-Mar-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Gilbert Garcia dba ABC Sandblasting		
Reg. Ent. Ref. No.	RN105574842		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36429	No. of Violations	2
Docket No.	2008-1380-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment due to compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$114
Approx. Cost of Compliance	\$3,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,000
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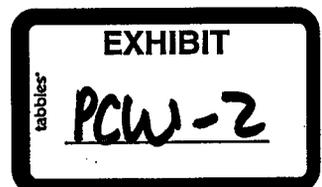
DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$3,000
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Screening Date 25-Aug-2008

Docket No. 2008-1380-MLM-E

PCW

Respondent Gilbert Garcia dba ABC Sandblasting

Policy Revision 2 (September 2002)

Case ID No. 36429

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105574842

Media [Statute] Air

Enf. Coordinator Michael Meyer

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)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 25-Aug-2008	Docket No. 2008-1380-MLM-E	PCW		
Respondent Gilbert Garcia dba ABC Sandblasting	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36429	<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN105574842				
Media [Statute] Air				
Enf. Coordinator Michael Meyer				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 330.15(a)(3)			
Violation Description	Failed to prevent the disposal of municipal solid waste in a manner which endangers human health and the environment, as documented during an investigation conducted on May 16, 2008. Specifically, samples of spent sandblast material collected from the middle of the property located at 11105 Cameron Road in Austin, Travis County. The samples were analyzed for TCLP for Lead and measured 4.8 mg/L, just below the level considered hazardous for toxicity of 5.0 mg/L.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Percent		<input type="text" value="10%"/>		
>> Programmatic Matrix				
Falsification				
Major Moderate Minor				
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>				
Percent		<input type="text" value="0%"/>		
Matrix Notes	<input type="text" value="Human health and the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels."/>			
Adjustment		<input type="text" value="\$9,000"/>		
			<input type="text" value="\$1,000"/>	
Violation Events				
Number of Violation Events		<input type="text" value="2"/>	<input type="text" value="101"/>	
		Number of violation days		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Violation Base Penalty		<input type="text" value="\$2,000"/>		
Two quarterly events are recommened from the May 16, 2008 investigation to the August 25, 2008 screening date.				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>	
		Before NOV NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>			
Ordinary	<input type="text"/>			
N/A	<input checked="" type="checkbox"/>	(mark with x)		
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal		<input type="text" value="\$2,000"/>		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$109"/>	Violation Final Penalty Total	
		<input type="text" value="\$2,000"/>		
		This violation Final Assessed Penalty (adjusted for limits)		
		<input type="text" value="\$2,000"/>		

Economic Benefit Worksheet

Respondent Gilbert Garcia dba ABC Sandblasting
Case ID No. 36429
Reg. Ent. Reference No. RN105574842
Media Air
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,500	16-May-2008	31-Mar-2009	0.87	\$109	n/a	\$109
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of spent sandblast material from the site. The Date Required is the May 16, 2008 investigation and the Final Date is the projected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$109

Screening Date 25-Aug-2008 **Docket No.** 2008-1380-MLM-E **PCW**

Respondent Gilbert Garcia dba ABC Sandblasting *Policy Revision 2 (September 2002)*

Case ID No. 36429 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN105574842

Media [Statute] Air

Enf. Coordinator Michael Meyer

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a)(4) and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description
Failed to obtain a standard exemption prior to conducting sandblasting activity, as documented during an investigation conducted on May 16, 2008. Specifically, the respondent failed to register with the TCEQ by submitting a standard exemption (PI-7 Form) prior to performing sandblasting at 11105 Cameron Road in Travis County.

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

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes
100 percent 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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes
The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

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 Gilbert Garcia dba ABC Sandblasting
Case ID No. 36429
Reg. Ent. Reference No. RN105574842
Media Air
Violation No. 2

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	16-May-2008	29-Jul-2008	0.20	\$5	n/a	\$5
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit an application for a standard exemption for sandblasting. The Date Required is the May 16, 2008 investigation and the Final Date is date the Respondent ceased operations at the site.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$5

Compliance History

Customer/Respondent/Owner-Operator:	CN603102443 GILBERT GARCIA	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105574842 ABC SANDBLASTING AT 11105 CAMERON RD	Classification:	Site Rating:
ID Number(s):	VOLUNTARY CLEANUP PROGRAM	ID NUMBER	2206
Location:	11105 CAMERON RD, AUSTIN, TX, 78704		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	August 31, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2003 to August 31, 2008		

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

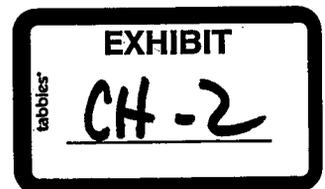
Name: Michael Meyer Phone: (512) 239-4492

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
.....
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
GILBERT GARCIA DBA ABC
SANDBLASTING
RN105074306
RN105574842**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-1380-MLM-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 chs. 361 and 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 Gilbert Garcia dba ABC Sandblasting ("Mr. Garcia").

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

FINDINGS OF FACT

1. Mr. Garcia operates a sandblasting business located at 308 Cumberland Road in Austin, Travis County. Mr. Garcia conducted sandblasting activity at 1409 Wathen Avenue in Austin, Travis County (the "Wathen Site") and 11105 Cameron Road in Austin, Travis County (the "Cameron Site") (collectively referred to as the "Sites").
2. The Sites consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Sites involve the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on March 20, 2008 at the Wathen Site, a TCEQ Austin Regional Office investigator documented that Mr. Garcia:
 - a. Failed to prevent the disposal of municipal hazardous waste in a manner which endangers human health and the environment. Specifically, samples of spent sandblast material were collected from the front steps and the base of the northeast corner of the home located at 1409 Wathen Avenue in Austin, Travis County. The samples were analyzed for Toxicity Characteristic Leaching Procedure ("TCLP") for

lead and measured 39.3 milligrams per liter ("mg/L") and 29.6, respectively, in excess of the EPA Regulatory limit considered hazardous for lead of 5.0 mg/L;

- b. Failed to prevent the release of air contaminants which interfered with the normal use and enjoyment of property. Specifically, sandblasting activity conducted by Mr. Garcia at 1409 Wathen Avenue in Austin, Travis County was discharging into the air in such a manner as to interfere with the normal use and enjoyment of property;
4. Mr. Garcia received notice of the violations at the Wathen Site on or about May 13, 2008.
5. During an investigation conducted on May 16, 2008 at the Cameron Site, a TCEQ Austin Regional Office investigator documented that Mr. Garcia:
 - a. Failed to prevent the disposal of municipal solid waste in a manner which endangers human health and the environment. Specifically, samples of spent sandblast material were collected from the middle of the property located at 11105 Cameron Road in Austin, Travis County. The samples were analyzed for TCLP for lead and measured 4.8 mg/L, just below the level considered hazardous for toxicity of 5.0 mg/L; and
 - b. Failed to obtain a standard exemption prior to conducting sandblasting activity. Specifically, Mr. Garcia failed to register with the TCEQ by submitting a standard exemption (PI-7 Form) prior to performing sandblasting at 11105 Cameron Road in Travis County.
6. Mr. Garcia received notice of the violations at the Cameron Site on or about August 4, 2008.
7. The Executive Director recognizes that Mr. Garcia ceased operations at the Cameron Site on or about July 29, 2008.
8. 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 Gilbert Garcia dba ABC Sandblasting" (the "EDPRP") in the TCEQ Chief Clerk's office on April 29, 2009.
9. By letter dated April 29, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Garcia 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. Garcia received notice of the EDPRP.

10. More than 20 days have elapsed since Mr. Garcia received notice of the EDPRP, provided by the Executive Director. Mr. Garcia failed to file an answer, 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. Garcia is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Garcia failed to prevent the disposal of municipal hazardous waste in a manner which endangers human health and the environment, in violation of 30 TEX. ADMIN. CODE § 330.15(a)(3).
3. As evidenced by Finding of Fact No. 3.b., Mr. Garcia failed to prevent the release of air contaminants which interfered with the normal use and enjoyment of property, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 5.a., Mr. Garcia failed to prevent the disposal of municipal solid waste in a manner which endangers human health and the environment, in violation of 30 TEX. ADMIN. CODE § 330.15(a)(3).
5. As evidenced by Finding of Fact No. 5.b., Mr. Garcia failed to obtain a standard exemption prior to conducting sandblasting activity, in violation of 30 TEX. ADMIN. CODE § 116.110(a)(4) and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
6. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director timely served Mr. Garcia with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
7. As evidenced by Finding of Fact No. 10, Mr. Garcia failed to file a timely answer 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. Garcia and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Garcia 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.

9. An administrative penalty in the amount of nine thousand dollars (\$9,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. 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. Garcia is assessed an administrative penalty in the amount of nine thousand dollars (\$9,000.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Garcia'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: Gilbert Garcia dba ABC Sandblasting; Docket No. 2008-1380-MLM-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. Garcia shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Garcia shall remove and/or submit documentation to demonstrate that all spent sandblast material has been removed from the Sites and disposed of at an authorized site;
 - b. Within 30 days after the effective of this Order, Mr. Garcia shall develop and implement procedures at the Wathen Site to prevent the recurrence of nuisance conditions from sandblasting activity; and

- c. Within 45 days after the effective date of this Order, Mr. Garcia 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. and 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 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:

Manager, Waste Section
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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

For the Commission

AFFIDAVIT OF LAURENCIA N. FASOYIRO

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

“My name is Laurencia N. Fasoyiro. 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 Gilbert Garcia dba ABC Sandblasting” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 29, 2009.

I sent the EDPRP to Mr. Garcia at his last known address on April 29, 2009 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. Garcia received notice of the EDPRP. Mr. Garcia failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference”.



Laurencia N. Fasoyiro
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Laurencia N. Fasoyiro, 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 05 day of August, A.D., 2009.

Nara Ann Lemoine
Notary Signature

Notary Stamp

