

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0694-MSW-E TCEQ ID: RN105470934 CASE NO.: 35789
RESPONDENT NAME: AGUSTIN RAMIREZ AND RUTH RAMIREZ

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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
<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> USED OIL	<input type="checkbox"/> WATER RIGHTS
<p>SITE WHERE VIOLATION(S) OCCURRED: 21407 Skinner Road, Edinburg, Hidalgo County</p> <p>TYPE OF OPERATION: Residential property</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There has been one complaint alleging unauthorized disposal of municipal solid waste. 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 expressed a desire to 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 January 12, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933 TCEQ Regional Contact: Mr. David Ramirez, Harlingen Regional Office, MC R-15, (956) 430-6048 Respondent: Mr. Agustin Ramirez and Ms. Ruth Ramirez, 21407 Skinner Road, Edinburg, Texas 78541 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: February 1, 2008</p> <p>Date of Investigation Relating to this Case: February 4, 2008</p> <p>Date of NOE Relating to this Case: March 29, 2008</p> <p>Background Facts: The case was referred to the Litigation Division on August 11, 2008. The EDP RP was filed on September 16, 2008. On October 9, 2008, the Chief Clerk's Office of the TCEQ received the Respondent's answer. Settlement was achieved and a signed Agreed Order with initial penalty payment was received on November 7, 2008.</p> <p>Current Compliance Status: The site is not currently in compliance.</p> <p>MSW: Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$1,000</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 Paid to General Revenue: \$120/\$880</p> <p>The Respondents have paid \$120 of the administrative penalty. The remaining amount of \$880 shall be paid in eight monthly installments of \$110 each.</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 Agustin Ramirez: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Ruth Ramirez: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease accepting and/or disposing of waste at the Site. 2. Within 30 days, remove all waste from the Site and dispose of it at an authorized facility. 3. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

TCEQ

DATES	Assigned	7-Apr-2008	Screening	24-Apr-2008	EPA Due	
	PCW	6-Aug-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Agustin Ramirez and Ruth Ramirez
Reg. Ent. Ref. No.	RN105470934
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35789	No. of Violations	1
Docket No.	2008-0694-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Clinton Sims
Multi-Media		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 Reduction *Subtotal 5*

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> X	(mark with x)

Notes

Total EB Amounts **0% Enhancement*** *Subtotal 6*
*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 24-Apr-2008

Docket No. 2008-0694-MSW-E

PCW

Respondent Agustin Ramirez and Ruth Ramirez

Policy Revision 2 (September 2002)

Case ID No. 35789

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN105470934

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 judgments 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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 change due to no previous compliance history.

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

Screening Date 24-Apr-2008	Docket No. 2008-0694-MSW-E	PCW			
Respondent Agustin Ramirez and Ruth Ramirez	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 35789	<i>PCW Revision March 8, 2008</i>				
Reg. Ent. Reference No. RN105470934					
Media [Statute] Municipal Solid Waste					
Enf. Coordinator Clinton Sims					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)				
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation conducted on February 4, 2008. Specifically, the Respondent allowed approximately 75 cubic yards of municipal solid waste (construction and demolition waste, brush, yard waste, rubbish, scrap tires, tire pieces, wood scrap, roofing shingles, metal scrap, wooden pallets, pvc piping, unidentified pressure tanks, plastic tote containers, paint cans and other metal cans of various sizes) to be disposed of at the Site.				
Base Penalty		<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent <input type="text" value="10%"/>	3406
	Release	Major	Moderate		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Matrix Notes	Human health or 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="1"/>		<input type="text" value="80"/> Number of violation days			
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text" value="x"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	<input type="text"/>				
					Violation Base Penalty <input type="text" value="\$1,000"/>
One quarterly event is recommended from the February 4, 2008 investigation date to the April 24, 2008 screening date.					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$149"/>		Violation Final Penalty Total <input type="text" value="\$1,000"/>			
This violation Final Assessed Penalty (adjusted for limits)					<input type="text" value="\$1,000"/>

Economic Benefit Worksheet

Respondent Agustin Ramirez and Ruth Ramirez
Case ID No. 35789
Reg. Ent. Reference No. RN105470934
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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$3,406	4-Feb-2008	20-Dec-2008	0.9	\$149	n/a	\$149
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. The Date Required is the investigation date and the Final Date is the expected 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	\$3,406	TOTAL	\$149
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603328972 RAMIREZ, AGUSTIN Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105470934 EVERGREEN DEVELOPMENT CO UT Classification: AVERAGE BY Site Rating: 3.01
3 LOT 89 DEFAULT
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150171
Location: 21407 N SKINNER RD, EDINBURG, TX, 78541
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: January 07, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 07, 2004 to January 07, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Clinton Sims Phone: 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
6. Rating Date: 9/1/2008 Repeat Violator: NO

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

Compliance History Report

Customer/Respondent/Owner-Operator: CN603354820 Ruth Ramirez Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105470934 EVERGREEN DEVELOPMENT CO UT Classification: AVERAGE BY Site Rating: 3.01
3 LOT 89 DEFAULT
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150171
Location: 21407 N SKINNER RD, EDINBURG, TX, 78541
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: January 07, 2009
Agency Decision Requiring Compliance History: Enforcement
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5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AGUSTIN RAMIREZ AND RUTH
RAMIREZ,
RN105470934

§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0694-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Agustin Ramirez and Ruth Ramirez ("the Ramirezes") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and the Ramirezes, appear before the Commission and together stipulate that:

1. The Ramirezes own residential property located at 21407 North Skinner Road, Edinburg, Hidalgo County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 37 and the TCEQ rules.
3. The Commission and the Ramirezes agree that the Commission has jurisdiction to enter this Agreed Order, and that the Ramirezes are subject to the Commission's jurisdiction.
4. The Ramirezes received notice of the violations alleged in Section II ("Allegations") on or about April 3, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Ramirezes of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of one thousand dollars (\$1,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Ramirezes have paid one hundred twenty dollars (\$120.00) of the administrative penalty. The remaining amount of eight hundred eighty dollars (\$880.00) shall be payable in eight monthly payments of one hundred ten dollars (\$110.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Ramirezes fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by the Ramirezes to timely and satisfactorily comply with all the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Ramirezes have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Ramirezes have not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

The Ramirezes are alleged to have violated 30 TEX. ADMIN. CODE § 330.15(c) by failing to prevent the unauthorized disposal of municipal solid waste on their Site, as documented on February 4, 2008.

III. DENIALS

The Ramirezes generally deny each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that the Ramirezes pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Ramirezes' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Agustin and Ruth Ramirez, Docket No. 2008-0694-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. The Ramirezes shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease disposing of any additional waste at the Site;
 - b. Within 30 days after the effective date of this Agreed Order, remove all municipal solid waste and dispose of the wastes at an authorized facility; and
 - c. Within 45 days after the effective date of this Agreed Order, 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 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:

David A. Ramirez, Waste Section, Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Ramirezes. The Ramirezes are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Ramirezes fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Ramirezes' failure to comply is not a violation of this Agreed Order. The Ramirezes shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Ramirezes shall notify the Executive Director within seven days after the Ramirezes become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Ramirezes shall be made in writing to the Executive Director. Extensions are not effective until the Ramirezes receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Ramirezes in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to the Ramirezes, or three days after the date on which the Commission mails notice of the Order to the Ramirezes, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Heath H. Cobb

For the Executive Director

11/9/09

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Agustin Ramirez

Signature

11-2-08

Date

Agustin Ramirez

Printed Name

H-2-08

Title

Ruth Ramirez

Signature

11-7-08

Date

Ruth Ramirez

Printed Name

11-7-08

Title