

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-0391-LII-E TCEQ ID: RN103331591 CASE NO.: 32941**  
**RESPONDENT NAME: JORGE A. CAVAZOS**

<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 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 checked="" 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

**SITE WHERE VIOLATION(S) OCCURRED:** 3106 Bob Rogers Drive, Eagle Pass, Maverick County; Lot #18 Gancho, 510 Qualia Drive, and 233 Saddle Blanket Trail, Del Rio, Val Verde County

**TYPE OF OPERATION:** landscape irrigation

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There was one complaint filed on December 19, 2006, alleging that Respondent installed a irrigation system without holding a valid landscape irrigators license. There is no record of additional pending enforcement actions regarding this facility location.

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on February 9, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717

**TCEQ Regional Contact:** Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052

**Respondent:** Mr. Jorge A. Cavazos, 1795 Williams Street, Eagle Pass, Texas 78852

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>                      December 19, 2006</p> <p><b>Dates of Investigations Relating to this Case:</b>                      February 16, 2007 and April 24, 2007</p> <p><b>Date of NOE Relating to this Case:</b>                      May 29, 2007</p> <p><b>Background Facts:</b>                      The EDPRP was filed on November 5, 2007 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, indicating that the Respondent received notice of the EDPRP. The Respondent failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>                      The Respondent obtained a license on June 20, 2007.</p> <p><b>LII:</b>                      Failed to obtain an irrigator license from the Commission prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system [30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a), TEX. WATER CODE § 37.003, and TEX. OCC. CODE § 1903.251].</p>	<p><b>Total Assessed:</b> \$2,250</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$2,250</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>                      N/A</p> <p><b>Person Compliance History Classification:</b>                      N/A</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>Corrective Action:</b>                      The Respondent obtained a license on June 20, 2007.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	5-Mar-2007	<b>Screening</b>	14-Mar-2007	<b>EPA Due</b>	
	<b>PCW</b>	14-May-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Jorge A. Cavazos		
<b>Reg. Ent. Ref. No.</b>	RN103331591		
<b>Facility/Site Region</b>	16-Laredo	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	32941	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0391-LII-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Irrigators	<b>Enf. Coordinator</b>	Tel Croston
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 2
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
---	-------------------	---------

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>
		\$0

<b>Notes</b>	No enhancement due to no previous compliance history.
--------------	---

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	----------------	-------------------	-----

<b>Notes</b>	The Respondent does not meet the culpability criteria.
--------------	--

<b>Good Faith Effort to Comply</b>	10% Reduction	<b>Subtotal 5</b>	\$250
------------------------------------	---------------	-------------------	-------

	Before NOV	NOV to EDPRP/Settlement Offer
<b>Extraordinary</b>		
<b>Ordinary</b>		X
<b>N/A</b>		(mark with x)
<b>Notes</b>	Respondent came into compliance on June 20, 2007.	

	0% Enhancement*	<b>Subtotal 6</b>	\$0
--	-----------------	-------------------	-----

<b>Total EB Amounts</b>	\$629	<b>*Capped at the Total EB \$ Amount</b>
<b>Approx. Cost of Compliance</b>	\$575	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,250
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
---	--	-------------------	-----

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

<b>Notes</b>	
--------------	--

<b>Final Penalty Amount</b>	\$2,250
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,250
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>		<b>Reduction</b>	<b>Adjustment</b>	\$0
-----------------	--	------------------	-------------------	-----

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

<b>Notes</b>	No deferral offered for a non-expedited case.
--------------	---

<b>PAYABLE PENALTY</b>	\$2,250
------------------------	---------

Screening Date 14-Mar-2007

Docket No. 2007-0391-LII-E

PCW

Respondent Jorge A. Cavazos

Policy Revision 2 (September 2002)

Case ID No. 32941

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103331591

Media [Statute] Irrigators

Enf. Coordinator Tel Croston

### 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%
<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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No enhancement due to no previous compliance history.

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

Screening Date 14-Mar-2007

Docket No. 2007-0391-LII-E

PCW

Respondent Jorge A. Cavazos

Policy Revision 2 (September 2002)

Case ID No. 32941

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN103331591

Media [Statute] Irrigators

Enf. Coordinator Tel Croston

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.5(a) and 344.4(a), Tex. Water Code § 37.003, and Tex. Occupations Code § 1903.251

Violation Description Failed to obtain an irrigator license from the Commission prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system. Specifically, Mr. Cavazos installed irrigation systems at 3106 Bob Rogers Drive, Eagle Pass, Maverick County, and Lot # 18 Gancho, 510 Qualia Drive and 233 Saddle Blanket Trail, Del Rio, Val Verde County, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Installing an irrigation system by a person not properly trained and licensed could result in improper installation that could contaminate the public drinking water supply.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 4 Number of violation days 115

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Four single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$629

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

## Economic Benefit Worksheet

**Respondent:** Jorge A. Cavazos  
**Case ID No.:** 32941  
**Reg. Ent. Reference No.:** RN103331591  
**Media:** Irrigators  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				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				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### 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]	\$575	16-Feb-2007	1-Feb-2008	1.9	\$54	\$575	\$629
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to take the required basic training course and the licensed irrigators course calculated from the date of the first record review documenting noncompliance through the expected date of compliance.

Approx. Cost of Compliance

\$575

**TOTAL**

\$629

# Compliance History

Customer/Respondent/Owner-Operator: CN601852171 CAVAZOS, JORGE A Classification: Rating:  
Regulated Entity: RN103331591 CAVAZOS, JORGE A Classification: Site Rating:  
ID Number(s): BACKFLOW PREVENTION ASSEMBLY LICENSE BP0010491  
TESTER LICENSING  
Location: 1795 Williams Street, Eagle Pass, Maverick County, Texas  
TCEQ Region: REGION 16 - LAREDO  
Date Compliance History Prepared: June 11, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 11, 2002 to June 11, 2007

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

Name: Tel Croston Phone: 239-5717

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
JORGE A. CAVAZOS,  
RN103331591

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2007-0391-LII-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 chs. 7 and 37, TEX. OCCUPATIONS CODE ch. 1903, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Jorge A. Cavazos ("Mr. Cavazos").

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

**FINDINGS OF FACT**

1. Mr. Cavazos owns and operates a landscape irrigation business located at 1795 Williams Street, Eagle Pass, Maverick County, Texas (the "Business").
2. Mr. Cavazos sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Cavazos is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37, TEX. OCCUPATIONS CODE ch. 1903, and the rules of the Commission.
3. During record reviews conducted on February 16, 2007 and April 24, 2007, a TCEQ Austin Central Office investigator documented that Mr. Cavazos failed to obtain an irrigator license from the Commission prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, Mr. Cavazos installed an irrigation system at: (1) 3106 Bob Rogers Drive, Eagle Pass, Maverick County, Texas; (2) Lot # 18 Gancho, Del Rio, Val Verde County, Texas; (3) 510 Qualia Drive, Del Rio, Val Verde County, Texas; and (4) 233 Saddle Blanket Trail, Del Rio, Val Verde County, Texas without an irrigator license.
4. Mr. Cavazos received notice of the violations on or about March 5, 2007 and June 2, 2007.

5. The Executive Director recognizes that Mr. Cavazos obtained a landscape irrigation license on June 20, 2007.
6. 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 Jorge A. Cavazos" (the "EDPRP") in the TCEQ Chief Clerk's office on November 5, 2007.
7. By letter dated November 5, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Cavazos 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. Cavazos received notice of the EDPRP.
8. More than 20 days have elapsed since Mr. Cavazos received notice of the EDPRP, provided by the Executive Director. Mr. Cavazos 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 Findings of Fact Nos. 1 and 2, Mr. Cavazos is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 37, TEX. OCCUPATIONS CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Mr. Cavazos failed to obtain an irrigator license from the Commission prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system, in violation of 30 TEX. ADMIN. CODE §§ 30.5(a) and 344.4(a), TEX. WATER CODE § 37.003, and TEX. OCCUPATIONS CODE § 1903.251.
3. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director has timely served Mr. Cavazos with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Findings of Fact No. 8, Mr. Cavazos has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Cavazos 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. Cavazos 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 fifty dollars (\$2,250.00) 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. Cavazos is assessed an administrative penalty in the amount of two thousand two hundred fifty dollars (\$2,250.00) for violations of TEX. WATER CODE ch. 37, TEX. OCCUPATIONS CODE ch. 1903, and rules of the TCEQ. The payment of this administrative penalty and Mr. Cavazos' 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: Jorge A. Cavazos; Docket No. 2007-0391-LII-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Mr. Cavazos. Mr. Cavazos is ordered to give notice of this Order to personnel who maintain day-to-day control over the business operations referenced in this Order.

4. 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. Cavazos if the Executive Director determines that Mr. Cavazos has not complied with one or more of the terms or conditions in this Order.
5. 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.
6. 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 REBECCA M. COMBS**

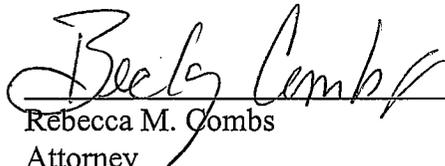
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Rebecca M. Combs. 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 Jorge A. Cavazos’ (the ‘EDPRP’) was filed with the Office of the Chief Clerk on November 5, 2007.

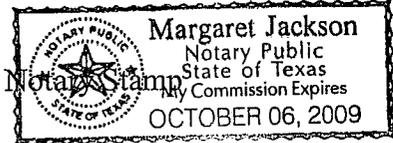
The EDPRP was sent to Mr. Cavazos at his last known address on November 5, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as ‘unclaimed’. The first class mail has not been returned, indicating that Mr. Cavazos received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

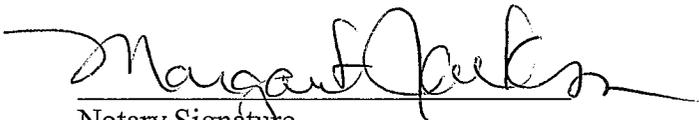
More than 20 days have elapsed since Mr. Cavazos received notice of the EDPRP. Mr. Cavazos failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

  
\_\_\_\_\_  
Rebecca M. Combs  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rebecca M. Combs, 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 16 day of December, 2008.



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