

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1989-MLM-E TCEQ ID: RN105338818 CASE NO.: 35033
RESPONDENT NAME: JOSE IBARRA

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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2288 Nina Avenue, Brownsville, Cameron County</p> <p>TYPE OF OPERATION: Private property</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There is one complaint, alleging that the Respondent was dumping construction debris. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>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 expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired August 25, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933 TCEQ Regional Contact: Mr. Jaime A. Garza, Harlingen Regional Office, MC R-15 (956) 430-6030 Respondent: Mr. Jose Ibarra, 1711 Iris Drive, Brownsville, Texas 78526-3904 Respondent's Attorney: Not represented by counsel.</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: August 16, 2007</p> <p>Date of Investigation Relating to this Case: September 17, 2007</p> <p>Date of NOE Relating to this Case: November 1, 2007</p> <p>Background Facts: The EDPRP was filed April 29, 2008. The Agreed Order was signed June 24, 2008.</p> <p>Current Compliance Status: All waste has been removed from the site.</p> <p>MLM:</p> <p>1. Failed to prevent unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2. Failed to prevent the unauthorized discharge of municipal solid waste into or adjacent to the water in the State [30 TEX. ADMIN. CODE § 330.15(a)(1) and TEX. WATER CODE § 26.121].</p>	<p>Total Assessed: \$2,000</p> <p>Total Deferred: \$0</p> <p><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: \$2,000</p> <p>The Respondent has paid the assessed penalty in full.</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 <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>Corrective Actions Taken:</p> <p>The Respondent removed the waste from the Site and properly disposed of the waste at an authorized facility.</p>

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision November 6, 2007

DATES	Assigned	5-Nov-2007	Screening	30-Nov-2007	EPA Due	
	PCW	4-Dec-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Jose Ibarra		
Reg. Ent. Ref. No.	RN105338818		
Facility/Site Region	15 - Harlingen	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35033	No. of Violations	2
Docket No.	2007-1989-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Clinton Sims
Multi-Media	Water Quality	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:	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	0% Enhancement	Subtotals 2, 3, & 7: \$0

Notes: No change due to average performer classification.

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

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

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

	0% Enhancement*	Subtotal 6:	\$0
Total EB Amounts	\$59	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$1,377		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Notes: Reduces or enhances the Final Subtotal by the indicated percentage.

Final Penalty Amount	\$2,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,000
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DEFERRAL	20% Reduction	Adjustment	-\$400
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Notes: Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)
 Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,600
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Screening Date 30-Nov-2007

Docket No. 2007-1989-MLM-E

PCW

Respondent Jose Ibarra

Policy Revision 2 (September 2002)

Case ID No. 35033

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105338818

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of..	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

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 average performer classification.

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

Screening Date	30-Nov-2007	Docket No.	2007-1989-MLM-E	PCW
Respondent	Jose Ibarra	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	35033	<i>PCW Revision November 6, 2007</i>		
Reg. Ent. Reference No.	RN105338818			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Clinton Sims			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)			
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, the Respondent allowed approximately 50 cubic yards of construction and demolition waste and brush to be disposed of at the site.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual			X	
	Potential				10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 81 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the September 17, 2007 investigation date to the November 30, 2007 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$58	Violation Final Penalty Total: \$1,000
This violation Final Assessed Penalty (adjusted for limits): \$1,000	

Economic Benefit Worksheet

Respondent Jose Ibarra
Case ID No. 35033
Reg. Ent. Reference No. RN105338818
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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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	\$1,350	11-Sep-2007	18-Jul-2008	0.9	\$58	n/a	\$58
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 (\$27 per cubic yard). 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 TOTAL

\$1,350

TOTAL

\$58

Screening Date 30-Nov-2007	Docket No. 2007-1989-MLM-E	PCW
Respondent Jose Ibarra	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35033	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN105338818		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Clinton Sims		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 330.15(a)(1) and Tex. Water Code § 26.121"/>	
Violation Description	<input type="text" value="Failed to prevent the unauthorized discharge of municipal solid waste into or adjacent to the waters of the state. Specifically, the Respondent allowed approximately one cubic yard of construction and demolition waste and brush to be discharged into the waters in the state (Resaca del Rancho Viejo)."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> **Environmental, Property and Human Health Matrix**

OR	Harm				
		Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		x
	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 or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels."/>				
Adjustment				<input type="text" value="\$9,000"/>	

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="81"/>	Number of violation days																		
<table border="1" style="border-collapse: collapse;"> <tr><td style="width:10%;"></td><td style="width:15%; text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td></td><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td></td><td style="text-align: center;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td></td><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td></td><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td></td><td style="text-align: center;">single event</td><td><input type="text"/></td></tr> </table> <p style="font-size: small; margin-top: 5px;"><i>mark only one with an x</i></p>		daily	<input type="text"/>		monthly	<input type="text"/>		quarterly	x		semiannual	<input type="text"/>		annual	<input type="text"/>		single event	<input type="text"/>	Violation Base Penalty	<input type="text" value="\$1,000"/>
	daily	<input type="text"/>																		
	monthly	<input type="text"/>																		
	quarterly	x																		
	semiannual	<input type="text"/>																		
	annual	<input type="text"/>																		
	single event	<input type="text"/>																		
One quarterly event is recommended from the September 17, 2007 investigation date to the November 30, 2007 screening date.																				

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="\$1,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/>	

Economic Benefit Worksheet

Respondent Jose Ibarra
Case ID No. 35033
Reg. Ent. Reference No. RN105338818
Media Municipal Solid Waste
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
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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	\$27	11-Sep-2007	18-Jul-2008	0.9	\$1	n/a	\$1
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 (\$27 per cubic yard). 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

\$27

TOTAL:

\$1

Compliance History

Customer/Respondent/Owner-Operator: CN603245283 IBARRA, JOSE Classification: Average Rating: 3.01
Regulated Entity: RN105338818 JOSE IBARRA PROPERTY Classification: Average Site Rating: 3.01
ID Number(s): MUNICIPAL SOLID WASTE NON ID NUMBER 455150165
PERMITTED
Location: 2288 NINA AVE, BROWNSVILLE, TX, 78521
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: November 26, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 26, 2002 to November 26, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Clinton Sims Phone: (512) 239-6933

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
JOSE IBARRA,
RN105338818

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1989-MLM-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 Jose Ibarra ("Mr. Ibarra") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Ibarra, appear before the Commission and together stipulate that:

1. Mr. Ibarra owns property located at 2288 Nina Avenue, Brownsville, Cameron 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, TEX. WATER CODE ch. 26, and TCEQ rules.
3. The Commission and Mr. Ibarra agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Ibarra is subject to the Commission's jurisdiction.
4. Mr. Ibarra received notice of the violations alleged in Section II ("Allegations") on or about November 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Ibarra of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand dollars (\$2,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Ibarra has paid two thousand dollars (\$2,000.00) of the administrative penalty.

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 Mr. Ibarra have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Ibarra removed the waste from the Site and properly disposed of the waste at an authorized facility. On April 28, 2008, Mr. Ibarra submitted five haul receipts and two photographs to demonstrate compliance regarding removal of all municipal solid waste and disposal of the wastes to an authorized facility.
10. 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 Mr. Ibarra has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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

Mr. Ibarra is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 330.15(c) by failing to prevent unauthorized disposal of municipal solid waste as documented on September 17, 2007. Specifically, the Respondent allowed approximately 50 cubic yards of construction and demolition waste and brush to be disposed of at the Site.
2. 30 TEX. ADMIN. CODE § 330.15(a)(1) and TEX. WATER CODE § 26.121 by failing to prevent the unauthorized discharge of municipal solid waste into or adjacent to the water of the State as documented on September 17, 2007. Specifically, the Respondent allowed approximately one cubic yard of construction and demolition waste and brush to be discharged into the water of the State (Resaca del Rancho Viejo).

III. DENIALS

Mr. Ibarra generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Ibarra pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Ibarra's 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: Jose Ibarra, Docket No. 2007-1989-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. The provisions of this Agreed Order shall apply to and be binding upon Mr. Ibarra. Mr. Ibarra is 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Ibarra 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.
4. 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.
5. 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 Mr. Ibarra, or three days after the date on which the Commission mails notice of the Order to Mr. Ibarra, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Jose Ibarra
DOCKET NO. 2007-1989-MLM-E
Page 4

SIGNATURE PAGE.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Bergien Perdue
For the Executive Director

8/22/08
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.

Jose Ibarra
Signature

06-24-08
Date

JOSE IBARRA
Name (Printed or typed)
Authorized representative of
Jose Ibarra

OWNER
Title

06/23/08

JOSE S. MILL

2007-1989-MLM-E