

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-1276-MSW-E TCEQ ID: RN105237036 CASE NO.: 34386**  
**RESPONDENT NAME: ALFONSO GARZA, JR., TRUSTEE FOR THE ALFONSO GARZA**  
**TESTAMENTARY TRUST AND EMMA G. GARZA**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** South 6.07 acres of Lot 12, Block 21, Texan Garden Subdivision, located 1.8 miles North of the intersection of Iowa Road and 7 Mile Line Road, La Joya, Hildago County

**TYPE OF OPERATION:** unauthorized municipal solid waste disposal site

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging that an unauthorized dump was being operated at the site. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** One complaint was received, but 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.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on June 15, 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. Ross Fife, Waste Enforcement Section, MC 128, (512) 239-2541  
**TCEQ Regional Contact:** Ms. Jaime Garza, Harlingen Regional Office, MC R-15, (956) 430-6030  
**Respondent:** Mr. Alfonso Garza, Jr., Trustee for the Alfonso Garza Testamentary Trust and Emma G. Garza  
**Respondent's Attorney:** Mr. Norbert Cardenas III, Person, Whitworth, Borchers & Morales, L.L.P., 602 E. Calton Road,  
 2<sup>nd</sup> Floor, Laredo, Texas 78042-6668

**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 type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>                      May 16, 2007</p> <p><b>Date of Investigation Relating to this Case:</b>                      June 5, 2007</p> <p><b>Date of NOE Relating to this Case:</b>                      July 11, 2007</p> <p><b>Background Facts:</b>                      The EDPRP was filed March 26, 2008. The Respondent filed an answer and the case was referred to SOAH. An Agreed Order was received July 16, 2008. Subsequently, a citation error was discovered which required a correction letter and republication of the order. The Respondent consented to the correction on May 4, 2009.</p> <p><b>Current Compliance Status:</b>                      Not yet in compliance.</p> <p><b>MSW:</b>                      Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p><b>Total Assessed:</b> \$1,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$1,000</p> <p>The Respondent paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Technical Requirements</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease allowing any additional disposal of municipal solid waste at the Site.</li> <li>2. Within 30 days, remove all unauthorized municipal solid waste from the Site and properly dispose of it at an authorized waste facility.</li> <li>3. Within 45 days, submit copies of documentation to demonstrate compliance with the Ordering Provisions above.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

**TCEQ**

DATES:	Assigned	23-Jul-2007	Screening	7-Aug-2007	EPA Due	
	PCW	8-Aug-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Alfonso Garza, Jr. Trustee of the Alfonso Garza Testamentary Trust and Emma G. Garza		
Reg. Ent. Ref. No.	RN105237036		
Facility/Site Region	15-Harlingen.	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34386	No. of Violations	1	
Docket No.	2007-1276-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Cynthia McKaughan	
Multi-Media		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1:</b>	<b>\$1,000</b>
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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	<b>Subtotals 2, 3, &amp; 7:</b>	<b>\$0</b>
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Notes: There were no previous NOV's for the same or similar violations.

Culpability	No	0% Enhancement	<b>Subtotal 4:</b>	<b>\$0</b>
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	<b>Subtotal 5:</b>	<b>\$0</b>
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Before NOV      NOV to EDRP/ Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondents do not meet the good faith criteria.

Total EB Amounts	\$582	0% Enhancement*	<b>Subtotal 6:</b>	<b>\$0</b>
Approx. Cost of Compliance	\$14,508	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	<b>\$1,000</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,000</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,000</b>
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Screening Date 7-Aug-2007

Docket No. 2007-1276-MSW-E

PCW

Respondent Alfonso Garza, Jr. Trustee of the Alfonso Garza Testame

Policy Revision 2 (September 2002)

Case ID No. 34386

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105237036

Media [Statute]: Municipal Solid Waste

Enf. Coordinator: Cynthia McKaughan

**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)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

There were no previous NOV's for the same or similar violations.

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

**Screening Date:** 7-Aug-2007      **Docket No.:** 2007-1276-MSW-E      **PCW**  
**Respondent:** Alfonso Garza, Jr. Trustee of the Alfonso Garza Testamentary Tr      *Policy Revision 2 (September 2002)*  
**Case ID No.:** 34386      *PCW Revision June 26, 2007*

**Reg. Ent. Reference No.:** RN105237036  
**Media [Statute]:** Municipal Solid Waste  
**Enf. Coordinator:** Cynthia McKaughan

**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 Respondents allowed approximately 1,116 cubic yards of waste clothing to be disposed of at property located on Iowa Road, approximately 1.8 miles north of the intersection of Iowa Road and 7 Mile Line Road in La Joya, Hidalgo County, Texas.

**Base Penalty:** \$10,000

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

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes:** Human health or the environment has been exposed to insignificant amounts of municipal solid waste.

**Adjustment:** \$9,000

\$1,000

**Violation Events**

**Number of Violation Events:** 1      **Number of violation days:** 63

*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 investigation date (June 5, 2007) to the screening date (August 7, 2007).

**Economic Benefit (EB) for this violation      Statutory Limit Test**

**Estimated EB Amount:** \$582      **Violation Final Penalty Total:** \$1,000

**This violation Final Assessed Penalty (adjusted for limits):** \$1,000

## Economic Benefit Worksheet

**Respondent:** Alfonso Garza, Jr. Trustee of the Alfonso Garza Testamentary Trust and Emma G. Garza

**Case ID No.:** 34386

**Reg. Ent. Reference No.:** RN105237036

**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	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal	\$14,508	5-Jun-2007	24-Mar-2008	0.8	\$582	\$0	\$582
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost for removing and disposing of approximately 1,116 cubic yards of municipal solid waste at \$13 per cubic yard. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$14,508 TOTAL \$582

# Compliance History

Customer/Respondent/Owner-Operator:	CN603208026	Alfonzo Garza, Jr. Trustee for the Alfonzo Garza Testamentary Trust	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105237036	TEXAN GARDENS UNAUTHORIZED DISPOSAL SITE	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE NON	ID NUMBER	455150163	
Location:	Texan Gardens Lot No. 12, Block No. 21, On Iowa Rd approx. 1.8 miles north of the intersection of Iowa Rd and 7 Mile Line Rd.		Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	July 17, 2008			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	July 17, 2003 to July 17, 2008			

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

Name: Ross Fife Phone: 512-239-2541

### 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 ALFONSO  
GARZA JR., TRUSTEE OF THE  
ALFONSO GARZA  
TESTAMENTARY TRUST AND  
EMMA G. GARZA; RN105237036

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-1276-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 Alfonso Garza Jr., Trustee of the Alfonso Garza Testamentary Trust, and Emma G. Garza ("the Garzas") 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 Garzas represented by Norberto Cardenas of the law firm of Person, Whitworth, Borchers & Morales, L.L.P., appear before the Commission and together stipulate that:

1. The Garzas own the South 6.07 acres of Lot 12, Block 21, Texan Gardens Subdivision, (as shown on the attached survey, Exhibit A), located 1.8 miles North of the intersection of Iowa Road and 7 Mile Line Road, La Joya, Hildago County, Texas (the "Site"). The Site involves the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 TCEQ rules.
3. The Commission and the Garzas agree that the Commission has jurisdiction to enter this Agreed Order, and that the Garzas are subject to the Commission's jurisdiction.
4. The Garzas received notice of the violations alleged in Section II ("Allegations") on or about July 16, 2007.

Alfonso Garza Jr., Trustee for the  
Alfonso Garza Testamentary Trust,  
and Emma. G. Garza  
Docket No. 2007-1276-MSW-E

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Garzas 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 Garzas have paid one thousand dollars (\$1,000.00) 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 the Garzas 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 Garzas 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 Garzas are alleged to have violated 30 TEX. ADMIN. CODE § 330.15(c) by failing to prevent the unauthorized disposal of municipal solid waste. Specifically, waste clothing was disposed of at the Site, as documented on June 5, 2007.

## III. DENIALS

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

Alfonso Garza Jr., Trustee for the  
Alfonso Garza Testamentary Trust,  
and Emma. G. Garza  
Docket No. 2007-1276-MSW-E

#### IV. ORDER

1. It is, therefore, ordered by the TCEQ that the Garzas pay an administrative penalty as set forth in Section I, Paragraph Six above. The payment of this administrative penalty and the Garzas' 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 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: Alfonso Garza Jr., Trustee of the Alfonso Garza Testamentary Trust, and Emma G. Garza, Docket No. 2007-1276-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 Garzas shall undertake the following technical requirements :
  - a. Immediately on the effective date of this Agreed Order, the Garzas shall cease allowing any additional disposal of municipal waste at the Site.
  - b. Within 30 days after the effective date of this Agreed Order, the Garzas shall remove all unauthorized municipal waste from the Site and properly dispose of it at an authorized waste facility.
  - c. Within 45 days after the effective date of this Agreed Order, the Garzas shall submit copies of documentation including photographs, receipts, and/or other records necessary to demonstrate compliance with Ordering Provisions 2.a-b. Said documentation shall contain a certification notarized by a State of Texas Notary Public and shall contain the following certification language:

"We certify under the penalty of law that we have personally examined and are familiar with the information submitted and all attached documents, and that based on our inquiry of those individuals immediately responsible for obtaining the information, we believe that the submitted information is true, accurate and complete. We are aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing

Alfonso Garza Jr., Trustee for the  
Alfonso Garza Testamentary Trust,  
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Docket No. 2007-1276-MSW-E

violations.”

The documentation and 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

and

Jaime Garza, Waste Section Manager  
Texas Commission on Environmental Quality  
Harlingen Regional Office  
1804 West Jefferson Ave.  
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Garzas. The Garzas 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 Garzas 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 Garzas' failure to comply is not a violation of this Agreed Order. The Garzas shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Garzas shall notify the Executive Director within seven days after the Garzas 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 Garzas shall be made in writing to the Executive Director. Extensions are not effective until the Garzas 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 Garzas in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of

**Alfonso Garza Jr., Trustee for the  
Alfonso Garza Testamentary Trust,  
and Emma. G. Garza**  
Docket No. 2007-1276-MSW-E

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 Garzas, or three days after the date on which the Commission mails notice of the Order to the Garzas, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Alfonso Garza Jr., Trustee for the  
Alfonso Garza Testamentary Trust,  
and Emma G. Garza  
Docket No. 2007-1276-MSW-E  
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission  
[Signature]  
For the Executive Director

9/9/08  
Date

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

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

- A negative impact on our compliance history;
- Greater scrutiny of any permit applications submitted by us;
- 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 us;
- Automatic referral to the Attorney General's Office of any future enforcement actions against us; and
- TCEQ seeking other relief as authorized by law.

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

X Emma G. Garza  
Signature  
Emma G. Garza  
Emma G. Garza

7-16-08  
Date  
Title

X Alfonso Garza Jr.  
Signature  
Alfonso Garza, Jr.  
Alfonso Garza, Jr.  
Trustee of the Alfonso Garza Testamentary Trust

7-16-08  
Date  
Trustee  
Title

