

Alex Zamora

RN106057508

Docket No. 2011-0304-OSI-E

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

OSI

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

100 San Elizario Road, Clint, El Paso County

**Type of Operation:**

unauthorized on-site sewage facility ("OSSF") repair

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** September 16, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$736

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$736

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

Alex Zamora

RN106057508

Docket No. 2011-0304-OSI-E

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** December 20, 2010  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** December 22, 2010

***Violation Information***

Failed to hold an OSSF installer license prior to performing construction on an OSSF [30 TEX. ADMIN. CODE §§ 30.5, 30.231(b) and 285.50(b), TEX. HEALTH & SAFETY CODE § 366.071(a), and TEX. WATER CODE § 37.003].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On February 10, 2011, Respondent submitted a letter of intent to cease operations as an OSSF installer.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** July 14, 2011  
**Date(s) Green Card(s) Signed:** July 22, 2011  
**Date(s) Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A

***Contact Information***

**TCEQ Attorneys:** Sharesa Y. Alexander, Litigation Division, (512) 239-3503  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ Enforcement Coordinator:** Lanae Ford, Water Enforcement Section, (915) 834-4949

**TCEQ Regional Contact:** Kent Waggoner, El Paso Regional Office, (915) 834-4957

**Respondent:** Alex Zamora, P.O. Box 500, San Elizario, Texas 79849

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	22-Feb-2011	Screening	24-Feb-2011	EPA Due	
	PCW	7-Jun-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Alex Zamora		
Reg. Ent. Ref. No.	RN106057508		
Facility/Site Region	6-EI Paso	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	41205	No. of Violations	1
Docket No.	2011-0304-OSI-E	Order Type	1660
Media Program(s)	All Occupational Licenses	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$625</b>
---	-------------------	--------------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>0.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
---------------------------	-------------------------	--------------------------------	------------

Notes: No adjustment for compliance history.

<b>Culpability</b>	<b>No</b>	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	-----------	-------------------------	-------------------	------------

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
--	-------------------	------------

<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
-------------------------	--------------------------	-------------------	------------

Total EB Amounts	\$111
Approx. Cost of Compliance	\$111

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$625</b>
-----------------------------	-----------------------	--------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>17.8%</b>	<b>Adjustment</b>	<b>\$111</b>
---	--------------	-------------------	--------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover avoided cost associated with the violation.

<b>Final Penalty Amount</b>	<b>\$736</b>
-----------------------------	--------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$736</b>
-----------------------------------	-------------------------------	--------------

<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
-----------------	-----------------------	-------------------	------------

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

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$736</b>
------------------------	--------------

Screening Date 24-Feb-2011

Docket No. 2011-0304-OSI-E

PCW

Respondent Alex Zamora

Policy Revision 2 (September 2002)

Case ID No. 41205

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106057508

Media [Statute] All Occupational Licenses

Enf. Coordinator Lanae Foard

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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 adjustment for compliance history.

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

Screening Date 24-Feb-2011

Docket No. 2011-0304-OSI-E

PCW

Respondent Alex Zamora

Policy Revision 2 (September 2002)

Case ID No. 41205

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106057508

Media [Statute] All Occupational Licenses

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.5, 30.231(b), and 285.50(b), Tex. Health & Safety Code § 366.071(a), and Tex. Water Code § 37.003

Violation Description Failed to hold an on-site sewage facility ("OSSF") installer license prior to performing construction on an OSSF. Specifically, the Respondent replaced leach lines on an OSSF at the Site without the required license or under the supervision of a licensed OSSF installer.

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 Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 1 52 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$625

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$111

Violation Final Penalty Total \$736

This violation Final Assessed Penalty (adjusted for limits) \$736

## Economic Benefit Worksheet

**Respondent** Alex Zamora  
**Case ID No.** 41205  
**Req. Ent. Reference No.** RN106057508  
**Media** All Occupational Licenses  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$111	6-Dec-2010	20-Dec-2010	0.00	\$0	\$111	\$111
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Cost to obtain an Installer Class I license. Date required is the approximate date repairs were conducted.  
Final date is the investigation date.

Approx. Cost of Compliance

\$111

**TOTAL**

\$111

# Compliance History

Customer/Respondent/Owner-Operator: CN603791039 ZAMORA, ALEX Classification: Rating:  
Regulated Entity: RN106057508 ZAMORA ALEX Classification: Site Rating:  
ID Number(s):  
Location: 100 San Elizario Rd, Clint, El Paso County, Texas  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: February 24, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 24, 2006 to February 24, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Lanae Foard Phone: (512) 239-2554

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, 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.)  
1 02/14/2011 (885777)
  - 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
- Sites Outside of Texas  
N/A

**THIS PAGE INTENTIONALLY LEFT BLANK**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ALEX ZAMORA;  
RN106057508**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-0304-OSI-E**

At its \_\_\_\_\_ agenda meeting, 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. HEALTH & SAFETY CODE ch. 366, 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 Alex Zamora ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent constructed, installed, altered, and/or repaired an On-Site Sewage Facility ("OSSF"), as defined in 30 TEX. ADMIN. CODE § 285.2(45), at 100 San Elizario Road in Clint, El Paso County, Texas (the "Site"). Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37 and TEX. HEALTH & SAFETY CODE § 366.011.
2. During an investigation conducted on December 20, 2010, a TCEQ El Paso Regional Office investigator documented that Respondent failed to hold an OSSF installer license prior to performing construction on an OSSF. Specifically, Respondent replaced leach lines on an OSSF at the Site without the required license or supervision of a licensed OSSF installer.
3. Respondent received notice of the violation on or about December 27, 2010.
4. The Executive Director recognizes that on February 10, 2011, Respondent submitted a letter of intent to cease operations as an OSSF installer.
5. 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 Alex Zamora" (the "EDPRP") in the TCEQ Chief Clerk's office on July 14, 2011.
6. By letter dated July 14, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on July 22, 2011, as evidenced by the signature on the card.

7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 37, TEX. HEALTH & SAFETY CODE ch. 366, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to hold an OSSF installer license prior to performing construction on an OSSF, in violation of 30 TEX. ADMIN. CODE §§ 30.5, 30.231(b) and 285.50(b), TEX. HEALTH & SAFETY CODE § 366.071(a), and TEX. WATER CODE § 37.003.
3. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent 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 Respondent for violations of state statutes 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 seven hundred thirty-six dollars (\$736.00) 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. Respondent is assessed an administrative penalty in the amount of seven hundred thirty-six dollars (\$736.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Alex Zamora; Docket No. 2011-0304-OSI-E" to:

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

For the Commission

**AFFIDAVIT OF SHARESASA Y. ALEXANDER**

**STATE OF TEXAS**

§  
§  
§

**COUNTY OF TRAVIS**

"My name is Sharesa Y. Alexander. 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 Alex Zamora" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 14, 2011.

The EDPRP was mailed to Respondent's last known address on July 14, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on July 22, 2011, as evidenced by the signature on the card.

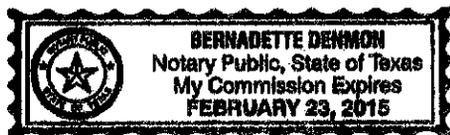
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

  
\_\_\_\_\_  
Sharesa Y. Alexander, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Sharesa Y. Alexander, 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 24<sup>th</sup> day of August, A.D. 2011.

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



Notary without Bond