

Executive Summary – Enforcement Matter – Case No. 41603
Marcelino Rico DBA Ricos Tires, Juan J. Vasquez, and Rosa Vasquez
RN106098247
Docket No. 2011-0700-MSW-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
0.25 miles east of the intersection of Mile 11 Road and Mile 6.5 Road, on Mile 11 Road, Weslaco, Hidalgo County

Type of Operation:
tire shredding facility

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 14, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,000

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: \$10,000

Compliance History Classifications:

Person/CN – Not yet rated (All 3 Respondents)
Site/RN – Not yet rated

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41603
Marcelino Rico DBA Ricos Tires, Juan J. Vasquez, and Rosa Vasquez
RN106098247
Docket No. 2011-0700-MSW-E

Investigation Information

Complaint Date(s): February 10, 2011
Complaint Information: Complaint alleged approximately 10,000 tires at the facility.
Date(s) of Investigation: March 7, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): April 14, 2011

Violation Information

Failed to prevent the unauthorized disposal of municipal solid waste (approx. 62,456 scrap tires) [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately, shall cease disposing of any additional waste at the Facility;
2. Within 30 days, remove all municipal solid waste and dispose of it at an authorized facility; and
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: July 13, 2011
Date(s) Green Card(s) Signed: July 18, 2011 (Rico); July 20, 2011 (Vasquez)
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: Tammy L. Mitchell, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Elvia Maske, Water Enforcement Section, (512) 239-0789
TCEQ Regional Contact: Jaime Garza, Harlingen Regional Office, (956) 430-6030
Respondents: Juan J. Vasquez and Rosa Vasquez, 880 E River Dr., Margate, FL 33063-4514
Marcelino Rico, Operator, Rico's Tires, 2123 Diamond Street, Donna, TX 78537
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Apr-2011	Screening	21-Apr-2011	EPA Due	
	PCW	5-May-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Marcelino Rico d/b/a Ricos Tires, Juan J Vasquez, and Rosa Vasquez
Reg. Ent. Ref. No.	RN106098247
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	41603	No. of Violations	1
Docket No.	2011-0700-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Elvia Maske
		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	\$10,000
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
---------------------------	------------------	--------------------------------	-----

Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$2,518
Approx. Cost of Compliance	\$68,319

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,000
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$10,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
-----------------------------------	-------------------------------	----------

DEFERRAL	0.0% Reduction	Adjustment	\$0
-----------------	----------------	-------------------	-----

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.

PAYABLE PENALTY	\$10,000
------------------------	----------

Screening Date 21-Apr-2011

Docket No. 2011-0700-MSW-E

PCW

Respondent Marcelino Rico d/b/a Ricos Tires, Juan J Vasquez,

Policy Revision 2 (September 2002)

Case ID No. 41603

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106098247

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

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 21-Apr-2011

Docket No. 2011-0700-MSW-E

PCW

Respondent Marcelino Rico d/b/a Ricos Tires, Juan J Vasquez, and Rosa Vas

Policy Revision 2 (September 2002)

Case ID No. 41603

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106098247

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

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 62,456 scrap tires (approximately 6,246 cubic yards) to be disposed of at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 45 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Two monthly events are recommended based on documentation of the violation during the March 7, 2011 investigation to the April 21, 2011 screening date.

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,518

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent Marcelino Rico d/b/a Ricos Tires, Juan J Vasquez, and Rosa Vasquez
Case ID No. 41603
Req. Ent. Reference No. RN106098247
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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	\$68,319	7-Mar-2011	1-Dec-2011	0.74	\$2,518	n/a	\$2,518
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remove and dispose of 62,456 scrap tires at an authorized disposal site. 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				0.00	\$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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$68,319

TOTAL

\$2,518

Compliance History

Customer/Respondent/Owner-Operator: CN603819772 Rico, Marcelino Classification: Rating:

Regulated Entity: RN106098247 Ricos Tires Property Classification: Site Rating:

ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150196

Location: Approx. 1/4 mi east of intersection of Mile 11 and Mile 6 1/2 on Mile 11.

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: April 20, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 20, 2006 to April 20, 2011

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

Name: Elvia Maske Phone: (512) 239 - 0789

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
- 6.. Rating Date: Repeat Violator:

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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator: CN603824038 Vasquez, Juan J Classification: Rating:

Regulated Entity: RN106098247 Ricos Tires Property Classification: Site Rating:

ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150196

Location: Approx. 1/4 mi east of intersection of Mile 11 and Mile 6 1/2 on Mile 11.

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: April 20, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 20, 2006 to April 20, 2011

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

Name: Elvia Maske Phone: (512) 239 - 0789

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
6. Rating Date: Repeat Violator:

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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator: CN603845322 Vasquez, Rosa Classification: Rating:

Regulated Entity: RN106098247 Ricos Tires Property Classification: Site Rating:

ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150196

Location: APPROX 1/4 MI E OF INTERSECTION OF MI 11 & MI 6 1/2 ON MI 11

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: May 09, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 09, 2006 to May 09, 2011

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

Name: Elvia Maske Phone: (512) 239 - 0789

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
6. . Rating Date: Repeat Violator:

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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MARCELINO RICO DBA RICOS
TIRES, JUAN J. VASQUEZ, AND
ROSA VASQUEZ;
RN106098247**

§
§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0700-MSW-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 ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Marcelino Rico DBA Ricos Tires (Mr. Rico), Juan J. Vasquez (Mr. Vasquez), and Rosa Vasquez (Mrs. Vasquez) (collectively, "Respondents").

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

FINDINGS OF FACT

1. Mr. Vasquez and Mrs. Vasquez own and Mr. Rico operates a tire shredding facility located 0.25 miles east of the intersection of Mile 11 Road and Mile 6.5 Road on Mile 11 Road in Weslaco, Hidalgo County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on March 7, 2011, a TCEQ Harlingen Regional Office investigator documented that Respondents failed to prevent the unauthorized disposal of MSW. Specifically, Respondents allowed approximately 62,456 scrap tires (approximately 6,246 cubic yards) to be disposed of at the Facility.
3. Respondents received notice of the violation on or about April 19, 2011.
4. 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 Marcelino Rico DBA Ricos Tires, Juan J. Vasquez, and Rosa Vasquez" (the "EDPRP") in the TCEQ Chief Clerk's office on July 13, 2011.
5. By letter dated July 13, 2011, sent to each Respondents' last known addresses via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDPRP. According to the return receipt "green cards," Mr. Rico received notice of the EDPRP on July 18, 2011,

and Mr. Vasquez and Mrs. Vasquez received notice of the EDPRP on July 20, 2011, as evidenced by the signatures on the cards.

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

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondents failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondents 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. 6, Respondents 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 Respondents 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 Respondents 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 ten thousand dollars (\$10,000.00) 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. Respondents are assessed an administrative penalty in the amount of ten thousand dollars (\$10,000.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' 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: Marcelino Rico DBA Ricos Tires, Juan J. Vasquez, and Rosa Vasquez; Docket No. 2011-0700-MSW-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. Respondents shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondents shall cease disposing of any additional MSW at the Facility, in accordance with 30 TEX. ADMIN. CODE 330.15(c).
 - b. Within 30 days after the effective date of this Order, Respondents shall remove all MSW from the Facility and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE 330.15(c).
 - c. Within 45 days after the effective date of this Order, Respondents shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.d. below, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.
 - d. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondents shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Jaime Garza, Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 W. Jefferson Ave.
Harlingen, TX 787550-5247

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after a Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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 TAMMY L. MITCHELL

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

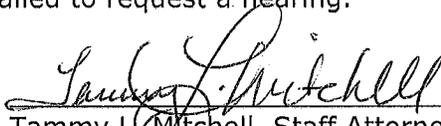
§

"My name is Tammy L. Mitchell. 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 Marcelino Rico DBA Ricos Tires, Juan J. Vasquez, and Rosa Vasquez' (the 'EDPRP') was filed in the TCEQ Chief Clerk's office on July 13, 2011.

The EDPRP was mailed to Respondents' last known addresses on July 13, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt 'green cards,' Mr. Rico received notice of the EDPRP on July 18, 2011, and Mr. and Mrs. Vasquez received notice of the EDPRP on July 20, 2011, as evidenced by the signatures on the cards.

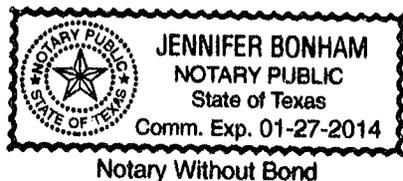
More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing."

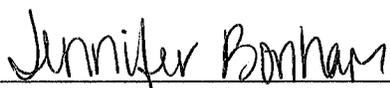


Tammy L. Mitchell, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tammy L. Mitchell, 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 15th day of September, A.D. 2011.





Notary Signature