

**Executive Summary – Enforcement Matter – Case No. 39682**  
**Horacio Tomas Meneses Bonilla**  
**RN105818900**  
**Docket No. 2010-0774-MSW-E**

**Order Type:**  
Default Order

**Findings Order Justification:**  
N/A

**Media:**  
MSW

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
3101 North Zaragoza Road, El Paso, El Paso County

**Type of Operation:**  
Tractor-trailer storage

**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:** February 4, 2011

**Comments Received:** None

***Penalty Information***

<b>Total Penalty Assessed:</b>	\$262
<b>Amount Deferred for Expedited Settlement:</b>	N/A
<b>Amount Deferred for Financial Inability to Pay:</b>	N/A
<b>Total Paid to General Revenue:</b>	\$0
<b>Total Due to General Revenue:</b>	\$262
<b>SEP Conditional Offset:</b>	N/A

**Compliance History Classifications:**  
Person/CN – Not yet rated  
Site/RN – Average by Default

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

Horacio Tomas Meneses Bonilla

RN105818900

Docket No. 2010-0774-MSW-E

***Investigation Information***

**Complaint Date(s):** N/A  
Complaint Information: N/A  
**Date(s) of Investigation:** April 1, 2010  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** April 21, 2010

***Violation Information***

Failed to prevent the unauthorized discharge of used oil [30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. Within 30 days, dispose of all contaminated soil, and submit documentation demonstrating analytical results of soil sampling which characterize the effectiveness of contaminated soil removal in all contaminated areas at the Site, including documentation that contaminated soils have been disposed of in an authorized manner.
2. Within 45 days, submit written certification to demonstrate compliance.

***Litigation Information***

**Date Petition(s) Filed:** October 7, 2010  
**Date(s) Green Card(s) Signed:** October 9, 2010  
**Date(s) Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):**  
Preliminary hearing: N/A  
Evidentiary hearing: N/A

***Contact Information***

**TCEQ Attorneys:** Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503  
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ SEP Coordinator:** N/A

**TCEQ Enforcement Coordinator:** Danielle Porrás, Waste Enforcement Section, (713) 767- 3682

**TCEQ Regional Contact:** Ken Waggoner, El Paso Regional Office, MC R-06, (915) 834- 4957

**Respondent:** Horacio Tomas Meneses Bonilla, 3101 North Zaragoza Road, El Paso, Texas 79938

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	26-Apr-2010	<b>Screening</b>	11-May-2010	<b>EPA Due</b>	
	<b>PCW</b>	17-Sep-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Horacio Tomas Meneses Bonilla
<b>Reg. Ent. Ref. No.</b>	RN105818900
<b>Facility/Site Region</b>	6-El Paso
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	39682	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2010-0774-MSW-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Danielle Porras	
		<b>EC's Team</b>	Enforcement Team 7	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$250
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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.

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$12
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<b>Notes</b>	Enhancement for one previous Notice of Violation ("NOV") with same or similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$268	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$7 000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$262
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$262
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$262
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$262
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**Screening Date** 11-May-2010

**Docket No.** 2010-0774-MSW-E

**PCW**

**Respondent** Horacio Tomas Meneses Bonilla

Policy Revision 2 (September 2002)

**Case ID No.** 39682

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN105818900

**Media [Statute]** Used Oil

**Enf. Coordinator** Danielle Porras

### 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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	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)** 5%

**>> 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**

Enhancement for one previous Notice of Violation ("NOV") with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

<b>Screening Date</b>	11-May-2010	<b>Docket No.</b>	2010-0774-MSW-E	<b>PCW</b>
<b>Respondent</b>	Horacio Tomas Meneses Bonilla			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	39682			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105818900			
<b>Media [Statute]</b>	Used Oil			
<b>Enf. Coordinator</b>	Danielle Porras			
<b>Violation Number</b>	<input type="text" value="1"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 324.1 and 40 Code of Federal Regulations § 279.22(d)"/>			
<b>Violation Description</b>	<input type="text" value="Failed to prevent the unauthorized discharge of used oil. Specifically, used oil stained soil was documented at various locations, including the mechanic shop and adjacent to containers storing used oil."/>			
<b>Base Penalty</b>	<input type="text" value="\$2,500"/>			

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="Human health and the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				
					<b>Adjustment</b> <input type="text" value="\$2,250"/>

**Violation Events**

Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="40"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$250"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
<input type="text" value="One quarterly event is recommended from the April 1, 2010 investigation date to the May 11, 2010 screening date."/>			

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text" value="mark with x"/>
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
<b>Violation Subtotal</b>	<input type="text" value="\$250"/>	

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

<b>Estimated EB Amount</b>	<input type="text" value="\$268"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$263"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$263"/>	

## Economic Benefit Worksheet

**Respondent** Horacio Tomas Meneses Bonilla  
**Case ID No.** 39682  
**Reg. Ent. Reference No.** RN105818900  
**Media** Used Oil  
**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	\$7,000	1-Apr-2010	5-Jan-2011	0.76	\$268	n/a	\$268
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean up and dispose of used oil contaminated soil. 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				0.00	\$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

\$7,000

**TOTAL**

\$268

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603573551 Bonilla, Horacio Tomas Meneses Classification: Rating:  
Regulated Entity: RN105818900 3101 N Zaragoza Rd Classification: Average By Default Site Rating:3.01

ID Number(s):  
Location: 3101 N ZARAGOZA RD, EL PASO, TX, 79938  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: June 22, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 22, 2005 to June 22, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Danielle Porras Phone: (512) 239-2602

## 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/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: 9/1/2009 Repeat Violator: NO

### 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 04/21/2010 (798942)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/23/2009 (777869)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)

Description: Failure to obtain a scrap tire storage site registration. More than 500 used or scrap tires were stored on the ground and more than 2,000 used or scrap tires were stored in enclosed and lockable containers. During the investigation, an estimated 800 used/scrap tires were stored on the ground throughout the property and an estimated 4800 used/scrap tires were located in five (5) enclosed and lockable containers. An estimated 5600 used/scrap tires are located on the property.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1

40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(a)

Description: Failure to store used oil in units other than tanks, containers and units subject to regulation under 40 CFR §264 and §265. During the investigation, open 55 gallon drums, 5 gallon buckets and 5 gallon totes containing used oil were found throughout the property with surface contamination/spills found at the base of the containers and adjacent areas. Open containers storing used oil were prevalent on the southwest and southern portion of the property.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1

40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(b)

Description: Failure to have containers used to store used oil in good condition and not leaking. During the investigation, open 55 gallon drums, 5 gallon buckets and 5 gallon totes containing used oil were found throughout the property with surface contamination/spills found at the base of the containers and adjacent areas. A majority of the 55 gallon drums used to store used oil were deteriorating and were in poor condition.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1

40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)

Description: Failure to have containers used to store used oil labeled or marked clearly with the words "Used Oil". During the investigation, open 55 gallon drums, 5 gallon buckets and 5 gallon totes containing used oil were found throughout the property with surface contamination/spills found at the base of the containers and adjacent areas. None of the containers observed during the investigation were labeled or marked with the words "Used Oil".

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1  
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)  
TWC Chapter 26 26.121

Description: Failure to perform the following cleanup steps upon the detection of a release of used oil to the environment:  
(1) Stop the release;  
(2) Contain the released used oil;  
(3) Clean up and manage properly the released used oil and other materials; and  
(4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

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  
HORACIO TOMAS MENESES  
BONILLA;  
RN105818900**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2010-0774-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. 371, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Horacio Tomas Meneses Bonilla ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a tractor-trailer storage yard with a mechanic shop located at 3101 North Zaragoza Road in El Paso, El Paso County, Texas (the "Site"). The Site involves the management and/or the disposal of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. During an investigation conducted on April 1, 2010, a TCEQ El Paso Regional Office investigator documented that Respondent failed to prevent the unauthorized discharge of used oil. Specifically, used oil-stained soil was documented at various locations at the Site, including the mechanic shop and adjacent to containers storing used oil.
3. Respondent received notice of the violation on or about April 26, 2010.
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 Horacio Tomas Meneses Bonilla" (the "EDPRP") in the TCEQ Chief Clerk's office on October 7, 2010.
5. By letter dated October 7, 2010, 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 October 9, 2010, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 371 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent the unauthorized discharge of used oil, in violation of 30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(d).
3. As evidenced by Findings of Fact Nos. 4 and 5, 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. 6, 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 two hundred sixty-two dollars (\$262.00) 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 two hundred sixty-two dollars (\$262.00) 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: Horacio Tomas Meneses Bonilla; Docket No. 2010-0774-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. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order Respondent shall dispose of all contaminated soil, and submit documentation to the address listed below in Ordering Provision No. 3.b., below, demonstrating analytical results of soil sampling which characterize the effectiveness of contaminated soil removal in all contaminated areas at the Site, including documentation that contaminated soils have been disposed of in an authorized manner; and
  - b. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a. The certification 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."

Respondent shall submit the written certification and copies of 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

Mr. Ken Waggoner, Waste Section Manager  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 East Franklin Avenue, Suite 560  
El Paso, Texas 79901-1206

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. 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.
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 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.
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 Respondent if the Executive Director determines that Respondent has 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

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For the Commission

**AFFIDAVIT OF SHARESA Y. ALEXANDER**

**STATE OF TEXAS**

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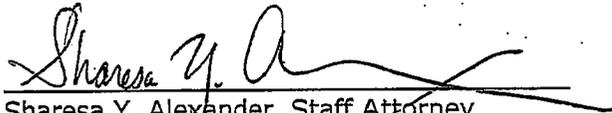
**COUNTY OF TRAVIS**

"My name is Shareisa 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 and Requiring Certain Actions of Horacio Tomas Meneses Bonilla," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 7, 2010.

The EDPRP was mailed to Respondent's last known address on October 7, 2010 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 October 9, 2010, as evidenced by the signature on the card.

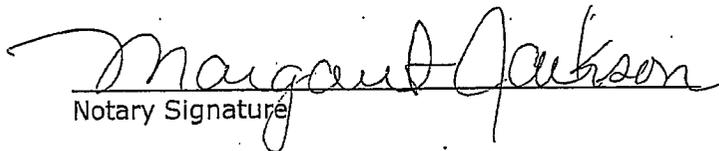
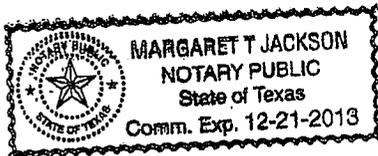
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Shareisa 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 Shareisa 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 2nd day of December A.D. 2010.



Notary Signature