

Executive Summary – Enforcement Matter – Case No. 40918
Meroslem Garcia and Miguel Alfaro
RN100918317
Docket No. 2010-2085-PST-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
12903 East Freeway, Houston, Harris County

Type of Operation:
inactive underground storage tank ("UST") system

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: June 10, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed:	\$3,675
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:	\$3,675

Compliance History Classifications (both Respondents):

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: December 15, 2010
Date(s) of NOV(s): May 18, 2010
Date(s) of NOE(s): December 15, 2010

Violation Information

1. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].
2. Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987 [30 TEX. ADMIN. CODE § 334.7(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Within 30 days, permanently remove the UST system from service.
2. Within 45 days, submit a properly completed UST registration form.
3. Within 60 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: April 21, 2011
Date(s) Green Card(s) Signed: April 23, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: Phillip M. Goodwin, P.G., Litigation Division, (512) 239-0675
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Todd Huddleson, Waste Enforcement Section, (512) 239-2541
TCEQ Regional Contact: Nicole Bealle, Houston Regional Office, (713) 767-3623
Respondent: Meroslem and Miguel Garcia and Alfaro, 16211 Rodale Drive, Houston, Texas 77049
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Dec-2010	Screening	28-Dec-2010	EPA Due	
	PCW	28-Mar-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Meroslem Garcia and Miguel Alfaro
Reg. Ent. Ref. No.	RN100918317
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40918	No. of Violations	2
Docket No.	2010-2085-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Todd Huddleson
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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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	5.0% Enhancement	Subtotals 2, 3, & 7	\$175
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$3,195	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,675
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$3,675
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,675
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.
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PAYABLE PENALTY	\$3,675
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Screening Date 28-Dec-2010

Docket No. 2010-2085-PST-E

PCW

Respondent Meroslem Garcia and Miguel Alfaro

Policy Revision 2 (September 2002)

Case ID No. 40918

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100918317

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Todd Huddleson

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>)	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)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

Screening Date 28-Dec-2010

Docket No. 2010-2085-PST-E

PCW

Respondent Meroslem Garcia and Miguel Alfaro

Policy Revision 2 (September 2002)

Case ID No. 40918

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100918317

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Todd Huddleson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.47(a)(2)

Violation Description Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an underground storage tank ("UST") system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 13

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the December 15, 2010 record review to the December 28, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,191

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Meroslem Garcia and Miguel Alfaro
Case ID No. 40918
Req. Ent. Reference No. RN100918317
Media Petroleum Storage Tank
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)	\$5,000	22-Dec-1998	24-Sep-2011	12.76	\$3,191	n/a	\$3,191

Notes for DELAYED costs

Estimated minimum cost to permanently remove three USTs from service. The Date Required is the date when the Respondents were required to upgrade the UST system 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

\$5,000

TOTAL

\$3,191

Screening Date 28-Dec-2010

Docket No. 2010-2085-PST-E

PCW

Respondent Meroslem Garcia and Miguel Alfaro

Policy Revision 2 (September 2002)

Case ID No. 40918

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100918317

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Todd Huddleson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.7(a)(1)

Violation Description Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 13 Number of violation days

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the December 15, 2010 record review.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Meroslem Garcia and Miguel Alfaro
Case ID No. 40918
Req. Ent. Reference No. RN100918317
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	15-Dec-2010	24-Sep-2011	0.78	\$4	n/a	\$4

Notes for DELAYED costs

Estimated minimum cost to prepare and submit a UST registration form. The Date Required is the date of the record review 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

\$100

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator:	CN603647264 GARCIA, MEROSLEM	Classification: AVERAGE	Rating: 6.00
Regulated Entity:	RN100918317 FORMERLY CALLAWAY AUTOMOTIVE	Classification: AVERAGE	Site Rating: 6.00
ID Number(s):	PETROLEUM STORAGE TANK NON REGISTERED	ID NUMBER	T002863
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX1655H
Location:	12903 EAST FWY, HOUSTON, TX, 77015		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	January 6, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 6, 2006 to January 6, 2011		

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

Name: Todd Huddleson 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/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: 9/1/2010 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	12/15/2010	(872453)
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- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/18/2010	(795058)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.47(a)(2)			
Description:	Failure to permanently remove tanks from service.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter A 334.7(a)(1)			
Description:	Failure to register tanks with TCEQ.			
- 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:	CN603647272	ALFARO, MIGUEL	Classification: AVERAGE	Rating: 6.00
Regulated Entity:	RN100918317	FORMERLY CALLAWAY AUTOMOTIVE	Classification: AVERAGE	Site Rating: 6.00
ID Number(s):	PETROLEUM STORAGE TANK NON REGISTERED	ID NUMBER	T002863	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HX1655H	
Location:	12903 EAST FWY, HOUSTON, TX, 77015			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	January 06, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 06, 2006 to January 06, 2011			

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

Name: Todd Huddleson 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/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: 9/1/2010 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 12/15/2010 (872453)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 05/18/2010 (795058)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
Description: Failure to permanently remove tanks from service.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.7(a)(1)
Description: Failure to register tanks with TCEQ.
- 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
MEROSLEM GARCIA AND
MIGUEL ALFARO;
RN100918317**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-2085-PST-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 26 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 Meroslem Garcia and Miguel Alfaro ("Respondents").

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

FINDINGS OF FACT

1. Respondents own, as defined in 30 TEX. ADMIN. CODE § 334.2(73), an out-of-service underground storage tank ("UST") system located at 12903 East Freeway in Houston, Harris County, Texas (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During a record review conducted on December 15, 2010, a TCEQ Houston Regional Office investigator documented that Respondents:
 - a. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and
 - b. Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987.
3. Respondents received notice of the violations on or about December 20, 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 Meroslem Garcia and Miguel Alfaro" (the "EDPRP") in the TCEQ Chief Clerk's office on April 21, 2011.

5. By letter dated April 21, 2011, sent to each Respondent's last known address 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," each Respondent received notice of the EDPRP on April 23, 2011, as evidenced by the signatures on the cards.
6. More than 20 days have elapsed since Respondents received notice of the EDPRP provided by the Executive Director. 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. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987, in violation of 30 TEX. ADMIN. CODE § 334.7(a)(1).
4. 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).
5. 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.
6. 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.
7. An administrative penalty in the amount of three thousand six hundred seventy-five dollars (\$3,675.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 three thousand six hundred seventy-five dollars (\$3,675.00) 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: Meroslem Garcia and Miguel Alfaro; Docket No. 2010-2085-PST-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. Within 30 days after the effective date of this Order, Respondents shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55;
 - b. Within 45 days after the effective date of this Order, Respondents shall submit a properly completed UST registration form, in accordance with 30 TEX. ADMIN. CODE § 334.7, to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Order, Respondents shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. 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.”

Respondents 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:

Nicole Bealle, Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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 Respondents become 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 PHILLIP M. GOODWIN

STATE OF TEXAS

§

COUNTY OF TRAVIS

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"My name is Phillip M. Goodwin. 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 Meroslem Garcia and Miguel Alfaro" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 21, 2011.

The EDPRP was mailed to each Respondent's last known address on April 21, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on April 23, 2011, as evidenced by the signatures on the cards.

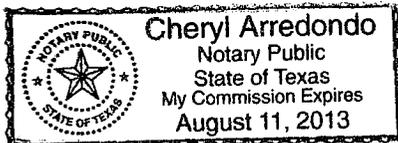
More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing."



Phillip M. Goodwin, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 26th day of May, A.D. 2011.



Notary Signature