

JOSE TREVINO

RN104402961

Docket No. 2010-0950-AIR-E

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

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

2602 Guatemozin Street, Laredo, Webb County

**Type of Operation:**

welding shop with surface coating operations

**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:** January 20, 2012

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$1,050

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

**Total Due to General Revenue:** \$1,050

**Compliance History Classifications:**

Person/CN – High  
Site/RN – High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

JOSE TREVINO

RN104402961

Docket No. 2010-0950-AIR-E

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** April 22, 2010  
**Date(s) of NOV(s):** November 30, 2009  
**Date(s) of NOE(s):** May 26, 2010

***Violation Information***

Failed to obtain proper authorization prior to conducting surface coating operations [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. Within 30 days, either obtain proper authorization to operate the Plant, or cease the surface coating operations at the Plant; and
2. Within 45 days, submit written certification demonstrate compliance.

***Litigation Information***

**Date Petition(s) Filed:** October 14, 2010 (EDPRP); December 6, 2010 (EDFARP); June 8, 2011 (EDSARP); September 16, 2011 (EDTARP); November 22, 2011 (ED4RP)

**Date(s) Green Card(s) Signed:** EDPRP - Unclaimed; EDFARP - December 8, 2010; EDSARP - June 10, 2011; EDTARP - September 19, 2011; ED4RP - November 25, 2011 (ED4RP)

**Date(s) Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

***Contact Information***

**TCEQ Attorneys:** Stephanie J. Frazee, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ Enforcement Coordinator:** John Muennink, Waste Enforcement Section, (361) 825-3423

**TCEQ Regional Contact:** Rose Luna-Pirtle, Laredo Regional Office, (956) 753-4052

**Respondent:** Jose Trevino, Trevino Welding, 2602 Guatemozin Street, Laredo, Texas 78043

**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>	1-Jun-2010			
	<b>PCW</b>	12-Sep-2011	<b>Screening</b>	9-Jun-2010	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Jose Trevino				
<b>Reg. Ent. Ref. No.</b>	RN104402961				
<b>Facility/Site Region</b>	16-Laredo	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	39849	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2010-0950-AIR-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	John Muennink		
		<b>EC's Team</b>	Enforcement Team 5		
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
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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>	-\$50
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<b>Notes</b>	Enhancement due to one NOV with same or similar violations. Reduction due to a High Performer classification.
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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	\$30	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$950
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	10.5%	<b>Adjustment</b>	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended adjustment to offset High Performer reduction.
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<b>Final Penalty Amount</b>	\$1,050
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,050
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<b>DEFERRAL</b>		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>	No deferral because this is not an expedited settlement.
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<b>PAYABLE PENALTY</b>	\$1,050
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**Screening Date** 9-Jun-2010

**Docket No.** 2010-0950-AIR-E

**PCW**

**Respondent** Jose Trevino

*Policy Revision 2 (September 2002)*

**Case ID No.** 39849

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN104402961

**Media [Statute]** Air

**Enf. Coordinator** John Muennink

### 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)**

**>> Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement due to one NOV with same or similar violations. Reduction due to a High Performer classification.

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

<b>Screening Date</b>	9-Jun-2010	<b>Docket No.</b>	2010-0950-AIR-E	<b>PCW</b>
<b>Respondent</b>	Jose Trevino	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	39849	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN104402961			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	John Muennink			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)			
<b>Violation Description</b>	Failed to obtain proper authorization prior to conducting surface coating operations. Specifically, the TCEQ investigator observed painted metal fencing and containers of paint, and Respondent failed to maintain records to demonstrate that the Plant meets the criteria of a de minimus facility.			
<b>Base Penalty</b>	\$10,000			

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> <input type="text" value="0%"/>
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	The Respondent failed to meet 100% of the rule requirement.				
<b>Adjustment</b>	\$9,000				

**Violation Events**

<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="48"/>	<b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>		<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
	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"/>		
One quarterly event is recommended based on the April 22, 2010 investigation date to the screening date of June 9, 2010.				

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="text" value="x"/>	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			<input type="text" value="\$1,000"/>

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

<b>Estimated EB Amount</b>	<input type="text" value="\$30"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,050"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$1,050"/>	

## Economic Benefit Worksheet

**Respondent** Jose Trevino  
**Case ID No.** 39849  
**Reg. Ent. Reference No.** RN104402961  
**Media** Air  
**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	\$1,000	22-Apr-2010	30-Nov-2010	0.61	\$30	n/a	\$30
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to obtain authorization to operate. The Date Required is the date of the investigation. The Final Date is the date corrective measures are estimated to be completed.

### 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

\$1,000

**TOTAL**

\$30

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601515430 TREVINO, JOSE Classification: HIGH Rating: 0.00  
Regulated Entity: RN104402961 JOSE TREVINO Classification: HIGH Site Rating: 0.00  
ID Number(s):

Location: 2602 GUATEMOZIN ST, LAREDO, TX, 78043

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: June 03, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 03, 2005 to June 03, 2010

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

Name: jmuenn Phone: (361) 825-3100

## 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 05/26/2010 (824538)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**Date: 11/30/2009 (783966)**

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)  
5C THSC Chapter 382 382.085(b)

Description: Failure to provide records of daily coating and solvent use and the actual hours of operation of each coating operation.  
As of May 26, 2010, the regulated entity has not submitted the documents within the required timeframe.  
Given the agency 180 day NOV resolution timeframe, this investigation is being referred to enforcement.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter S 106.433(2)(C)  
5C THSC Chapter 382 382.085(b)

Description: Failure to store all new and used coatings and solvents in closed containers. All waste coatings and solvents shall be removed from the site by an authorized disposal service or disposed of at a permitted on-site waste management facility.  
Failed to comply with the notice of violation within specified time frame.

- 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JOSE TREVINO;  
RN104402961**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2010-0950-AIR-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Fourth Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, 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 Jose Trevino ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a welding shop with surface coating operations located at 2602 Guatemozin Street in Laredo, Webb County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During a record review conducted on April 22, 2010, a TCEQ Laredo Regional Office investigator documented that Respondent failed to obtain proper authorization prior to conducting surface coating operations. Specifically, painted metal fencing and containers of paint were observed at the Plant, and Respondent failed to maintain records to demonstrate that the Plant meets the criteria of a *de minimus* facility.
3. Respondent received notice of the violation on or about May 31, 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 Jose Trevino" (the "EDPRP") in the TCEQ Chief Clerk's office on October 14, 2010.
5. By letter dated October 14, 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. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.

6. The Executive Director filed the "Executive Director's First Amended 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 Jose Trevino" (the "EDFARP") in the TCEQ Chief Clerk's office on December 6, 2010.
7. By letter dated December 6, 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 EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on December 8, 2011, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's Second Amended 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 Jose Trevino" (the "EDSARP") in the TCEQ Chief Clerk's office on June 8, 2011.
9. By letter dated June 8, 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 EDSARP. According to the return receipt "green card," Respondent received notice of the EDSARP on June 10, 2011, as evidenced by the signature on the card.
10. The Executive Director filed the "Executive Director's Third Amended 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 Jose Trevino" (the "EDTARP") in the TCEQ Chief Clerk's office on September 16, 2011.
11. By letter dated September 16, 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 EDTARP. According to the return receipt "green card," Respondent received notice of the EDTARP on September 19, 2011, as evidenced by the signature on the card.
12. The Executive Director filed the "Executive Director's Fourth Amended 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 Jose Trevino" (the "ED4RP") in the TCEQ Chief Clerk's office on November 22, 2011.
13. By letter dated November 22, 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 ED4RP. According to the return receipt "green card," Respondent received notice of the ED4RP on November 25, 2011, as evidenced by the signature on the card.
14. More than 20 days have elapsed since Respondent received notice of the EDPRP, EDFARP, EDSARP, EDTARP, and ED4RP. 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. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to obtain proper authorization prior to conducting surface coating operations, in violation of TEX. HEALTH & SAFETY CODE § 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a).
3. As evidenced by Findings of Fact Nos. 4 through 13, the Executive Director timely served Respondent with proper notice of the EDPRP, EDFARP, EDSARP, EDTARP, and ED4RP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE §§ 70.104(a) and 70.104(c)(2).
4. As evidenced by Finding of Fact No. 14, 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 one thousand fifty dollars (\$1,050.00) 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 one thousand fifty dollars (\$1,050.00) 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: Jose Trevino; Docket No. 2010-0950-AIR-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 of this Order, Respondent shall obtain proper authorization to operate the Plant, in accordance with 30 TEX. ADMIN. CODE § 116.110(a), or cease the surface coating operations at the Plant; and
  - b. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation to demonstrate compliance with Ordering Provision No. 3.a. The certification 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."

Respondent shall submit the written certifications 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:

Air Section Manager  
Texas Commission on Environmental Quality  
Laredo Regional Office  
707 East Calton Road, Ste. 304  
Laredo, Texas 78041-3887

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 Plant 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

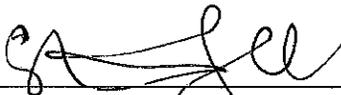


September 16, 2011, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Fourth Amended 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 Jose Trevino" (the "ED4RP") was filed in the TCEQ Chief Clerk's office on November 22, 2011.

The ED4RP was mailed to Respondent's last known address on November 22, 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 ED4RP on November 25, 2011, as evidenced by the signature on the card.

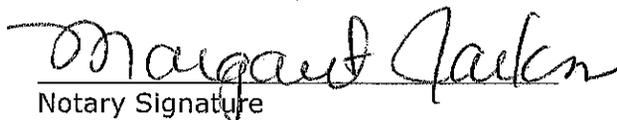
More than 20 days have elapsed since Respondent received notice of the EDPRP, EDFARP, EDSARP, EDTARP, and ED4RP. Respondent failed to file an answer and failed to request a hearing."



Stephanie J. Frazee, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, 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 19th day of December, A.D. 2011.



Notary Signature

