

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 40891
Baldemar Cienfuegos Andrade
RN105919039
Docket No. 2010-2058-IHW-E

Order Type:

Default Order (SOAH preliminary hearing)

Findings Order Justification:

N/A

Media:

IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

4302 Pan American Boulevard, Laredo, Webb County

Type of Operation:

management/disposal of industrial solid waste

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 8, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$21,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$21,000

Compliance History Classifications:

Person/CN – Not yet rated
Site/RN – Not yet rated

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 22, 2010
Date(s) of NOV(s): May 26, 2010
Date(s) of NOE(s): June 22, 2011

Violation Information

Failed to conduct hazardous waste determinations and waste classifications [30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a), and 40 C.F.R. § 262.11].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days, conduct hazardous waste determinations and properly classify all waste streams for the eight drums located at the Facility;
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: June 24, 2011; September 20, 2011
Date Answer(s) Filed: July 11, 2011
SOAH Referral Date: November 1, 2011
Hearing Date(s):
Preliminary hearing: January 5, 2012 (defaulted)
Evidentiary hearing: N/A

Contact Information

TCEQ Attorneys: Tammy L. Mitchell, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Clinton Sims, Enforcement Division, (512) 239- 6933
TCEQ Regional Contact: Rose Luna-Pirtle, Laredo Regional Office, (956) 791-6611
Respondent: Baldemar Cienfuegos Andrade, 3309 Cortez, Laredo, Texas 78045
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	21-Dec-2010	EPA Due	
	PCW	3-May-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	Baldemar Cienfuegos Andrade		
Reg. Ent. Ref. No.	RN105919039		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40891	No. of Violations	1
Docket No.	2010-2058-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Clinton Sims
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$20,000
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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.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$1,000
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Notes: Enhancement for one NOV with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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	\$1,519
Approx. Cost of Compliance	\$33,600

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,000
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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:

Final Penalty Amount \$21,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$21,000
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Screening Date 21-Dec-2010

Docket No. 2010-2058-IHW-E

PCW

Respondent Baldemar Cienfuegos Andrade

Policy Revision 2 (September 2002)

Case ID No. 40891

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105919039

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

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 21-Dec-2010

Docket No. 2010-2058-IHW-E

PCW

Respondent Baldemar Cienfuegos Andrade

Policy Revision 2 (September 2002)

Case ID No. 40891

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105919039

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62 and 335.503(a), and 40 Code of Federal Regulations § 262.11

Violation Description Failed to conduct hazardous waste determinations and waste classifications. Specifically, the Respondent did not conduct waste determinations and waste classifications on eight abandoned 200-pound drums labeled sodium cyanide.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 8 29 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$20,000

Eight single events are recommended (one event for each wastestream).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,519

Violation Final Penalty Total \$21,000

This violation Final Assessed Penalty (adjusted for limits) \$21,000

Economic Benefit Worksheet

Respondent Baldemar Cienfuegos Andrade
Case ID No. 40891
Req. Ent. Reference No. RN105919039
Media Industrial and Hazardous 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	\$33,600	22-Nov-2010	18-Oct-2011	0.90	\$1,519	n/a	\$1,519
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct hazardous waste determinations and waste classifications on eight waste streams (\$4,200 per wastestream). The Date Required is the investigation date and the Final Date is the estimated compliance date.

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

\$33,600

TOTAL

\$1,519

Compliance History

Customer/Respondent/Owner-Operator: CN603951252 Andrade, Baldemar Cienfuegos Classification: Rating:
Regulated Entity: RN105919039 JIT CORPORATION Classification: Site Rating:
ID Number(s):
Location: 4302 PAN AMERICAN BOULEVARD, LAREDO, TX, 78045
TCEQ Region: REGION 16 - LAREDO
Date Compliance History Prepared: August 25, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 25, 2006 to August 25, 2011

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

Name: Clinton Sims Phone: (512) 239-6933

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

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 (803058)
 - 2 11/29/2010 (878863)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/26/2010 (803058)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.62
Description: Failure of a Regulated Entity (RE) to properly identify, classify and dispose of potential hazardous waste.
 - 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
BALDEMAR CIENFUEGOS
ANDRADE;
RN105919039**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-2058-IHW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 respondent. The respondent made the subject of this Order is Baldemar Cienfuegos Andrade ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns eight drums labeled sodium cyanide located at 4302 Pan American Boulevard in Laredo, Webb County, Texas (the "Facility"). The Facility involves the management and/or the disposal of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on November 22, 2010, a TCEQ Laredo Regional Office investigator documented that Respondent failed to conduct hazardous waste determinations and waste classifications. Specifically, Respondent did not conduct waste determinations and waste classifications on eight abandoned 200-pound drums labeled sodium cyanide.
3. Respondent received notice of the violation on or about June 27, 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 PAME CORP., Jit Forwarding, Inc., Luis Medina Lopez de Nava, Pedro Medina Lopez De Nava, and Fernando Padilla Velasco" (the "EDPRP") in the TCEQ Chief Clerk's office on June 24, 2011.
5. By letter dated June 27, 2011, Respondent notified the TCEQ that he owned the eight drums located at the Facility.
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 PAME CORP., Jit Forwarding, Inc., Luis Medina Lopez de Nava, Pedro Medina Lopez De Nava, Fernando Padilla Velasco, and Baldemar Cienfuegos Andrade" (the "EDFARP") in the TCEQ Chief Clerk's office on September 20, 2011.

7. An answer requesting a hearing was filed on July 11, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on November 1, 2011.
8. On December 5, 2011, the TCEQ Chief Clerk mailed notice of the January 5, 2012, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent. The United States Postal Service returned the notice sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the preliminary hearing.
9. On January 5, 2012, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that Respondent be severed from the ongoing SOAH action and remanded to the Executive Director so that a Default Order may be entered by the Commission.
10. On February 6, 2012, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No.1, Documenting Preliminary Hearing, Announcing Default of Baldemar Cienfuegos Andrade, and Establishing a Procedural Schedule, so that TCEQ may dispose of this case on a default basis.

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. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No.2, Respondent failed to conduct hazardous waste determinations and waste classifications, and failed to prevent the unauthorized disposal of industrial solid waste, in violation of 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a), and 40 C.F.R. § 262.11.
3. As evidenced by Finding of Fact No. 7, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
4. As evidenced by Finding of Fact No. 8, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
5. As evidenced by Findings of Fact Nos. 9 and 10, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).

6. 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.
7. An administrative penalty in the amount of twenty-one thousand dollars (\$21,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
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. Respondent is assessed an administrative penalty in the amount of twenty-one thousand dollars (\$21,000.00) 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: Baldemar Cienfuegos Andrade; Docket No. 2010-2058-IHW-E, Account No. 23707131" 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 conduct hazardous waste determinations and properly classify all waste streams for the eight drums located at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a), and 40 C.F.R. § 262.11.
 - b. Within 45 days after the effective date of this Order, Respondent shall submit written certification 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 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:

Rose Luna-Pirtle, Waste Section Manager
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 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 Facility 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

For the Commission

AFFIDAVIT OF TAMMY L. MITCHELL

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

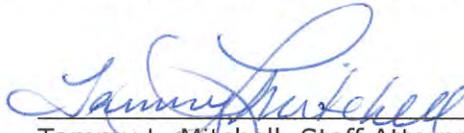
"My name is Tammy L. Mitchell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's 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 PAME CORP., Jit Forwarding, Inc., Luis Medina Lopez de Nava, Pedro Medina Lopez De Nava, Fernando Padilla Velasco, and Baldemar Cienfuegos Andrade" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on September 20, 2011.

An answer requesting a hearing was filed on July 11, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on November 1, 2012. On December 5, 2011, the TCEQ Chief Clerk mailed notice of the January 5, 2012, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on January 5, 2012. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be severed from the ongoing SOAH case and remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the agency for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

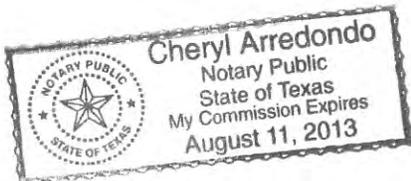
The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Documenting Preliminary Hearing, Announcing Default of Baldemar Cienfuegos Andrade, and Establishing a Procedural Schedule, issued on February 6, 2012, so that TCEQ may dispose of this case on a default basis."



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 23rd day of May, A.D. 2012.



Notary Signature