

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46029  
Horacio Delgado and Honoriana Delgado  
RN106557556  
Docket No. 2013-0148-MSW-E

**Order Type:**

Default Order

**Media:**

MSW

**Small Business:**

Yes

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

25201 State Highway 345, San Benito, Cameron County

**Type of Operation:**

property with an unauthorized municipal solid waste ("MSW") disposal site

**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 14, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$11,250

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

**Total Due to General Revenue:** \$11,250

**Compliance History Classifications:**

Person/CN –N/A (both respondents)  
Site/RN –N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Horacio Delgado and Honoriana Delgado**

RN106557556

Docket No. 2013-0148-MSW-E

**Investigation Information**

**Complaint Date(s):** September 26, 2012  
**Complaint Information:** Alleged that there was a dump site located on N. Sam Houston Blvd. in San Benito that has household waste, tires, and construction and demolition debris.

**Date(s) of Investigation:** October 24, 2012

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** December 27, 2012

**Violation Information**

Failed to prevent the unauthorized disposal of MSW (approx. 1,728 cu/yd. of construction debris, shingles, household trash, couches, mattresses, tires, brush, wood pallets, and a boat) [30 TEX. ADMIN. CODE § 330.15(c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**  
None

**Technical Requirements:**

1. Immediately, cease disposing of any additional MSW at the Site.
2. Within 30 days, remove all MSW from the Site and dispose of the MSW at an authorized facility.
3. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** June 20, 2013; July 18, 2013

**Date Green Card(s) Signed:** Unclaimed; Unclaimed

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

**TCEQ Attorneys:** Ryan Rutledge, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, (512) 239-1203

**TCEQ Regional Contact:** Francisco Chavera, Harlingen Regional Office, (956) 430-6033

**Respondent:** Horacio and Honoriana Delgado, 25201 State Highway 345, San Benito, Texas 78586-7365

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	7-Jan-2013	<b>Screening</b>	10-Jan-2013	<b>EPA Due</b>	
	<b>PCW</b>	19-Apr-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Horacio Delgado and Honoriana Delgado	
<b>Reg. Ent. Ref. No.</b>	RN106557556	
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b> Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46029	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0148-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$11,250
---	-------------------	----------

## 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>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
---------------------------	------------------	--------------------------------	-----

<b>Notes</b>	No adjustment for compliance history.
--------------	---------------------------------------

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

<b>Notes</b>	The Respondents do not meet the culpability criteria.
--------------	---

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$838	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$17,726	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,250
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
--------------	--

<b>Final Penalty Amount</b>	\$11,250
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,250
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
-----------------	----------------	-------------------	-----

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.
--------------	--

<b>PAYABLE PENALTY</b>	\$11,250
------------------------	----------

**Screening Date** 10-Jan-2013

**Docket No.** 2013-0148-MSW-E

**PCW**

**Respondent** Horacio Delgado and Honoriana Delgado

*Policy Revision 3 (September 2011)*

**Case ID No.** 46029

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN106557556

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Keith Frank

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

**>> Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

<b>Screening Date</b>	10-Jan-2013	<b>Docket No.</b>	2013-0148-MSW-E	<b>PCW</b>
<b>Respondent</b>	Horacio Delgado and Honoriana Delgado			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	46029			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106557556			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Keith Frank			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="15.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> 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="0.0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

		Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)	

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Horacio Delgado and Honoriana Delgado  
**Case ID No.** 46029  
**Reg. Ent. Reference No.** RN106557556  
**Media Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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	\$17,726	24-Oct-2012	4-Oct-2013	0.95	\$838	n/a	\$838
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**   Estimated cost to remove the MSW and dispose of it at an authorized facility. Date Required is the investigation date. 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   \$17,726

**TOTAL**   \$838

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604166298, RN106557556, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN604166298, Delgado, Horacio **Classification:** N/A **Rating:** N/A

**Regulated Entity:** RN106557556, ABST 16-VILLA DEL SOL LOT 1 **Classification:** N/A **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 25201 STATE HIGHWAY 345 SAN BENITO, TX 78586-7365, CAMERON COUNTY

**TCEQ Region:** REGION 15 - HARLINGEN

**ID Number(s):** MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150222

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** January 10, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 10, 2008 to January 10, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Keith Frank **Phone:** (512) 239-1203

**Site and Owner/Operator History:**

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

- A. Final Orders, court judgments, and consent decrees:**  
N/A
- B. Criminal convictions:**  
N/A
- C. Chronic excessive emissions events:**  
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**  
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.  
N/A
- F. Environmental audits:**  
N/A
- G. Type of environmental management systems (EMSs):**  
N/A
- H. Voluntary on-site compliance assessment dates:**  
N/A
- I. Participation in a voluntary pollution reduction program:**  
N/A
- J. Early compliance:**  
N/A
- Sites Outside of Texas:**  
N/A

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604240630, RN106557556, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN604240630, Delgado, Honoriana **Classification:** N/A **Rating:** N/A

**Regulated Entity:** RN106557556, ABST 16-VILLA DEL SOL LOT 1 **Classification:** N/A **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 25201 STATE HIGHWAY 345 SAN BENITO, TX 78586-7365, CAMERON COUNTY

**TCEQ Region:** REGION 15 - HARLINGEN

**ID Number(s):** MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150222

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** January 10, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 10, 2008 to January 10, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Keith Frank

**Phone:** (512) 239-1203

**Site and Owner/Operator History:**

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

- A. Final Orders, court judgments, and consent decrees:**  
N/A
- B. Criminal convictions:**  
N/A
- C. Chronic excessive emissions events:**  
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**  
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.  
N/A
- F. Environmental audits:**  
N/A
- G. Type of environmental management systems (EMSs):**  
N/A
- H. Voluntary on-site compliance assessment dates:**  
N/A
- I. Participation in a voluntary pollution reduction program:**  
N/A
- J. Early compliance:**  
N/A
- Sites Outside of Texas:**  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HORACIO DELGADO AND  
HONORIANA DELGADO;  
RN106557556**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2013-0148-MSW-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Horacio Delgado and Honoriana Delgado ("Respondents").

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

### **FINDINGS OF FACT**

1. Respondents own property with an unauthorized municipal solid waste ("MSW") disposal site located at 25201 State Highway 345 in San Benito, Cameron County, Texas (the "Site"). The Site involves the management and/or the disposal of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on October 24, 2012, a TCEQ Harlingen Regional Office investigator documented that Respondents failed to prevent the unauthorized disposal of MSW. Specifically, approximately 1,728 cubic yards of MSW, which included construction debris, shingles, household trash, couches, mattresses, tires, brush, wood pallets, and a boat, was disposed of at the Site.
3. Respondents received notice of the violation on or about January 1, 2013.
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 Delgado and Honoriana Delgado" (the "EDPRP") in the TCEQ Chief Clerk's office on June 20, 2013.
5. The EDPRP was mailed to Respondents' last known address on June 20, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on July 18, 2013.
7. By letter dated July 18, 2013, sent to Respondents' 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. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondents received notice of the EDPRP.

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

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondents failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Findings of Fact Nos. 4 through 7, 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(c)(2).
4. As evidenced by Finding of Fact No. 8, Respondents failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of eleven thousand two hundred fifty dollars (\$11,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondents are assessed an administrative penalty in the amount of eleven thousand two hundred fifty dollars (\$11,250.00) 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: Horacio Delgado and Honoriana Delgado; Docket No. 2013-0148-MSW-E" to:

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

3. Respondents shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Respondents shall cease disposing of any additional MSW at the Site, in accordance with 30 TEX. ADMIN. CODE § 330.15(c);
  - b. Within 30 days after the effective date of this Order, Respondents shall remove all MSW from the Site and dispose of the MSW at an authorized facility; and
  - c. Within 45 days after the effective date of this Order, Respondents shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. and 3.b. 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."

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

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

and:

Francisco Chavera, Waste Section Manager  
Texas Commission on Environmental Quality  
Harlingen Regional Office  
1804 W. Jefferson Ave.  
Harlingen TX 78550-5247

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Site 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 Respondent 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 RYAN RUTLEDGE**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

§

"My name is Ryan Rutledge. 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.

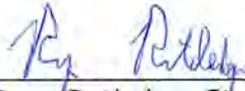
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Horacio Delgado and Honoriana Delgado" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 20, 2013.

The EDPRP was mailed to Respondents' last known address on June 20, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on July 18, 2013.

The EDPRP was mailed to Respondents' last known address on July 18, 2013, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondents received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

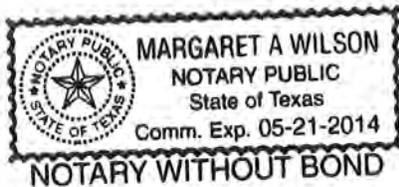
More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing."



\_\_\_\_\_  
Ryan Rutledge, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Ryan Rutledge, 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 14<sup>th</sup> day of JANUARY, A.D. 2014.



  
\_\_\_\_\_  
Notary Signature