

**Omar Salinas**  
**RN106097876**  
**Docket No. 2013-2185-OSS-E**

**Order Type:**

Default Order

**Media:**

On-Site Sewage Facility

**Small Business:**

Yes

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

1033 Pearson, Freer, Duval County

**Type of Operation:**

on-site sewage disposal facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$1,046.63 (2011-1724-OSS-E; referred for collection)  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** July 18, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$6,250

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

**Total Due to General Revenue:** \$6,250

**Compliance History Classifications:**

Person/CN – N/A

Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Omar Salinas**  
**RN106097876**  
**Docket No. 2013-2185-OSS-E**

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** October 21, 2013  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** November 4, 2013

**Violation Information**

1. Failed to obtain authorization to construct an On-Site Sewage Facility (“OSSF”) [30 TEX. ADMIN. CODE § 285.3(b)(1) and TCEQ Default Order Docket No. 2011-1724-OSS-E, Ordering Provisions Nos. 3.c. through 3.e.].
2. Failed to prevent an unauthorized discharge of graywater [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 285.81(d), and TCEQ Default Order Docket No. 2011-1724-OSS-E, Ordering Provisions Nos. 3.a. and 3.b.].

**Corrective Actions/Technical Requirements**

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

**Technical Requirements:**

1. Within 30 days, cease the unauthorized discharge of graywater from the Site.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 60 days, submit for the Site a completed permit application, planning materials, the results of a site evaluation, and the appropriate fee.
4. Within 90 days, submit written certification to demonstrate that either authorization to construct an OSSF at the Site has been obtained, that operation of the existing OSSF has ceased until such time that appropriate authorization is obtained, or that the existing OSSF has been properly removed or properly abandoned.

**Litigation Information**

**Date Petition(s) Filed:** March 17, 2014; April 15, 2014  
**Date Green Card(s) Signed:** Unclaimed; Unclaimed  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Meaghan M. Bailey, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Isabel Segarra Trevino, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Jennifer Graves, Enforcement Division, (956) 430-6023

**TCEQ Regional Contact:** Arnaldo Lanese, Laredo Regional Office, (956) 791-6611

**Respondent Contact:** Omar Salinas, P.O. Box 1345, Alice, Texas 78333

**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>	12-Nov-2013		
	<b>PCW</b>	12-Jun-2014	<b>Screening</b>	26-Nov-2013
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Omar Salinas
<b>Reg. Ent. Ref. No.</b>	RN106097876
<b>Facility/Site Region</b>	16-Laredo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	42571	<b>No. of Violations</b>	2
<b>Docket No.</b>	2013-2185-OSS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	On-Site Sewage Disposal	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jennifer Graves
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,000
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	25.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b>
	\$1,250

<b>Notes</b>	Enhancement for one order without denial.
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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	\$745	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,150	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$6,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,250
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$6,250
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**Screening Date** 26-Nov-2013

**Docket No.** 2013-2185-OSS-E

**PCW**

**Respondent** Omar Salinas

*Policy Revision 2 (September 2002)*

**Case ID No.** 42571

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN106097876

**Media [Statute]** On-Site Sewage Disposal

**Enf. Coordinator** Jennifer Graves

### 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	1	25%
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)** 25%

#### >> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one order without denial.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

**Screening Date** 26-Nov-2013 **Docket No.** 2013-2185-OSS-E **PCW**  
**Respondent** Omar Salinas *Policy Revision 2 (September 2002)*  
**Case ID No.** 42571 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN106097876  
**Media [Statute]** On-Site Sewage Disposal  
**Enf. Coordinator** Jennifer Graves

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 285.3(b)(1) and TCEQ Default Order Docket No. 2011-1724-OSS-E, Ordering Provisions Nos. 3.c, 3.d, and 3.e

**Violation Description**  
 Failed to obtain authorization to construct an on-site sewage facility ("OSSF"). Specifically, the Respondent constructed and installed an OSSF on his own property without first obtaining the required authorization, as documented during a record review conducted on October 21, 2013.

**Base Penalty** \$2,500

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			10%

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

**Adjustment** \$2,250

\$250

**Violation Events**

Number of Violation Events 15 466 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$3,750

Fifteen monthly events are recommended from the effective date of the Default Order (September 6, 2012) to the screening date (November 26, 2013).

**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** \$3,750

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

**Statutory Limit Test**

**Estimated EB Amount** \$723

**Violation Final Penalty Total** \$4,688

**This violation Final Assessed Penalty (adjusted for limits)** \$4,688

# Economic Benefit Worksheet

**Respondent** Omar Salinas  
**Case ID No.** 42571  
**Reg. Ent. Reference No.** RN106097876  
**Media** On-Site Sewage Disposal  
**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	\$5,000	6-Sep-2012	30-Sep-2014	2.07	\$34	\$689	\$723
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)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to have an engineer or sanitarian inspect the OSSF and make necessary changes so the OSSF can be permitted. Date required is the effective date of the Default Order. Final date is the expected 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**  
 (Empty box for notes)

**Approx. Cost of Compliance**   \$5,000

**TOTAL**   \$723

Screening Date 26-Nov-2013

Docket No. 2013-2185-OSS-E

PCW

Respondent Omar Salinas

Policy Revision 2 (September 2002)

Case ID No. 42571

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106097876

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 285.81(d), and TCEQ Default Order Docket No. 2011-1724-OSS-E, Ordering Provisions Nos. 3.a and 3.b

Violation Description

Failed to prevent an unauthorized discharge of graywater. Specifically, graywater from a single family residence was discharging onto an adjacent property without being utilized for gardening, composting, or any other approved use as described in 30 Tex. Admin. Code § 285.81(d), as documented during a record review conducted on October 21, 2013.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 5

466 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

Five quarterly events are recommended from the effective date of the Default Order (September 6, 2012) to the screening date (November 26, 2013).

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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,563

This violation Final Assessed Penalty (adjusted for limits) \$1,563

# Economic Benefit Worksheet

**Respondent** Omar Salinas  
**Case ID No.** 42571  
**Reg. Ent. Reference No.** RN106097876  
**Media Violation No.** On-Site Sewage Disposal  
 2

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	\$150	6-Sep-2012	30-Sep-2014	2.07	\$1	\$21	\$22
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)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost for the additional line and landscaping for the rerouting of the graywater line and discharge. Date required is the effective date of the Default Order. Final date is the expected 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 \$150

**TOTAL** \$22



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603819574, RN106097876, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN603819574, OMAR SALINAS **Classification:** NOT APPLICABLE **Rating:** N/A

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**Regulated Entity:** RN106097876, OSSF LOCATED AT 1033 PEARSON **Classification:** NOT APPLICABLE **Rating:** N/A

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

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**CH Group:** 14 - Other

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**Location:** 1033 PEARSON FREER, TX 78357, DUVAL COUNTY

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**TCEQ Region:** REGION 16 - LAREDO

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**ID Number(s):** ON SITE SEWAGE FACILITY NON-PERMITTED PERMIT 066-037

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**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

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**Date Compliance History Report Prepared:** February 11, 2014

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**Agency Decision Requiring Compliance History:** Enforcement

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**Component Period Selected:** February 11, 2009 to February 11, 2014

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

**Name:** Jennifer Graves **Phone:** (956) 430-6023

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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:**

- 1 Effective Date: 09/06/2012 ADMINORDER 2011-1724-OSS-E (Findings Order-Default)  
Classification: Moderate  
Citation: 30 TAC Chapter 285, SubChapter A 285.3(b)(1)  
Description: Failure to obtain an authorization to construct an on-site sewage facility (OSSF) . Specifically, the Respondent constructed and installed an OSSF on his own property without first obtaining the required authorization.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 285, SubChapter H 285.81(d)  
Description: Failed to prevent an unauthorized discharge of graywater. Specifically, graywater from a single family residence was discharging onto an adjacent property without being utilized for gardening, composting, or any other approved use as described in 30 TEX. ADMIN. CODE § 285.81(d).

### **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  
OMAR SALINAS;  
RN106097876**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2013-2185-OSS-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, TEX. HEALTH & SAFETY CODE ch. 366, 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 Omar Salinas ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent constructed, installed, altered, and/or repaired an On-Site Sewage Facility ("OSSF"), as defined in 30 TEX. ADMIN. CODE § 285.2(45), at 1033 Pearson in Freer, Duval County, Texas (the "Site"). Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 26 and TEX. HEALTH & SAFETY CODE § 366.011.
2. During a record review conducted on October 21, 2013, TCEQ Central Office staff documented that Respondent:
  - a. Failed to obtain authorization to construct an OSSF. Specifically, Respondent constructed and installed an OSSF at the Site without first obtaining the required authorization; and
  - b. Failed to prevent an unauthorized discharge of graywater. Specifically, graywater from the Site was discharging onto an adjacent property without being utilized for gardening, composting, or any other approved use as described in 30 TEX. ADMIN. CODE § 285.81(d).
3. Respondent received notice of the violations on or about November 9, 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 Omar Salinas" (the "EDPRP") in the TCEQ Chief Clerk's office on March 17, 2014.
5. The EDPRP was mailed to Respondent's last known address on March 17, 2014, 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 April 15, 2014.

7. By letter dated April 15, 2014, 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.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. 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. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 366, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain authorization to construct an OSSF, in violation of 30 TEX. ADMIN. CODE § 285.3(b)(1) and TCEQ Default Order Docket No. 2011-1724-OSS-E, Ordering Provisions Nos. 3.c. through 3.e.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent an unauthorized discharge of graywater, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 285.81(d), and TCEQ Default Order Docket No. 2011-1724-OSS-E, Ordering Provisions Nos. 3.a. and 3.b.
4. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 8, 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.
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 TCEQ'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 six thousand two hundred fifty dollars (\$6,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
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 six thousand two hundred fifty dollars (\$6,250.00) 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: Omar Salinas; Docket No. 2013-2185-OSS-E" to:

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

3. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Respondent shall cease the unauthorized discharge of graywater from the Site.
- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.a.
- c. Within 60 days after the effective date of this Order, Respondent shall submit for the Site a completed permit application, planning materials, the results of a site evaluation, and the appropriate fee, in accordance with 30 TEX. ADMIN. CODE § 285.3(b)(1) to:

Arnaldo Lanese, Water Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3887

Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.

- d. Within 90 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.e., below, to demonstrate that either authorization to construct an OSSF at the Site has been obtained, that operation of the existing OSSF has ceased until such time that appropriate authorization is obtained, or that the existing OSSF has been properly removed or properly abandoned, in accordance with 30 TEX. ADMIN. CODE § 285.36(b).
- e. The certifications required by these Ordering Provisions 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:

Arnaldo Lanese, Water 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 Site operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF MEAGHAN M. BAILEY**

**STATE OF TEXAS**

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§

**COUNTY OF TRAVIS**

"My name is Meaghan M. Bailey. 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 Omar Salinas" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 17, 2014.

The EDPRP was mailed to Respondent's last known address on March 17, 2014, 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 April 15, 2014.

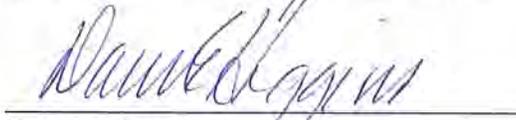
The EDPRP was mailed to Respondent's last known address on April 15, 2014, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

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

Before me, the undersigned authority, on this day personally appeared Meaghan M. Bailey, 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 18<sup>th</sup> day of June, A.D. 2014.

  
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Notary Signature

