

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45130
Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop
RN106200603
Docket No. 2015-0435-AIR-E

Order Type:

Default Order

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

802 Avenue H, Rosenberg, Fort Bend County

Type of Operation:

auto body and paint shop

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$1,516.35 (2012-2016-AIR-E; referred for collection)
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: November 20, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,500

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$10,500

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45130
Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop
RN106200603
Docket No. 2015-0435-AIR-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: September 4, 2014, through September 24, 2014
Date(s) of NOV(s): N/A
Date(s) of NOE(s): March 4, 2015

Violation Information

Failed to obtain the proper authorization prior to operating a surface coating facility [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b); 30 TEX. ADMIN. CODE § 116.110(a); and TCEQ Agreed Order Docket No. 2012-2016-AIR-E, Ordering Provisions Nos. 2.a. and 2.d.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days, either submit an administratively complete Form PI-7, or submit an administratively complete permit application.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 180 days, submit written certification that either authorization to operate the Plant has been obtained or that operation has ceased until such time that appropriate authorization has been obtained.

Litigation Information

Date Petition(s) Filed: September 28, 2015
Date Green Card(s) Signed: October 5, 2015
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jess Robinson, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Rajesh Acharya, Enforcement Division, (512) 239-0577
TCEQ Regional Contact: Andy Goodridge, Houston Regional Office, (713) 767-3500
Respondent Contact: Moises Enrique Martinez, 802 Avenue H, Rosenberg, Texas 77469-1661
Respondent's Attorney: Kunal Mishra, Nexus Tax Advisors, LLC, 2825 Wilcrest Drive, Suite 486, Houston, Texas 77042



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	23-Feb-2015		
	PCW	5-May-2015	Screening	4-Mar-2015
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop
Reg. Ent. Ref. No.	RN106200603
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	45130	Order Type	Findings
Docket No.	2015-0435-AIR-E	Government/Non-Profit	No
Media Program(s)	Air	Enf. Coordinator	Rajesh Acharya
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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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	20.0% Enhancement	Subtotals 2, 3, & 7	\$1,750
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Notes: Enhancement for one order containing a denial of liability.

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: \$647
 Estimated Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,500
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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: (Empty box)

Final Penalty Amount	\$10,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,500
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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: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$10,500
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Screening Date 4-Mar-2015

Docket No. 2015-0435-AIR-E

PCW

Respondent Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop

Policy Revision 4 (April 2014)

Case ID No. 45130

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106200603

Media [Statute] Air

Enf. Coordinator Rajesh Acharya

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>)	1	20%
	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 judgments 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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 4-Mar-2015 **Docket No.** 2015-0435-AIR-E **PCW**
Respondent Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop *Policy Revision 4 (April 2014)*
Case ID No. 45130 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN106200603
Media [Statute] Air
Enf. Coordinator Rajesh Acharya

Violation Number 1
Rule Cite(s) TCEQ Agreed Order Docket No. 2012-2016-AIR-E, Ordering Provision Nos. 2.a. and 2.d., 30 Tex. Admin. Code § 116.110(a), and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)
Violation Description Failed to obtain the proper authorization prior to operating a surface coating facility. Specifically, the Respondent continued to operate the surface coating facility without proper authorization since the effective date of TCEQ Agreed Order Docket No. 2012-2016-AIR-E on July 28, 2013, and did not submit an administratively complete Form PI-7 or an administratively complete permit application in accordance with 30 Tex. Admin. Code § 116.111 and did not submit written certification that the operation has ceased.
Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

100% of the rule requirement was not met.

Adjustment \$23,750
 \$1,250

Violation Events

Number of Violation Events 7 584 Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly **Violation Base Penalty** \$8,750
 semiannual
 annual
 single event

Seven quarterly events are recommended from the effective date of the agreed order on July 28, 2013 to the screening date of March 4, 2015.

Good Faith Efforts to Comply 0.0% Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer
 Extraordinary
 Ordinary
 N/A (mark with x)
 Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$8,750

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

Estimated EB Amount \$647 **Violation Final Penalty Total** \$10,500

This violation Final Assessed Penalty (adjusted for limits) \$10,500

Economic Benefit Worksheet

Respondent Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop
Case ID No. 45130
Reg. Ent. Reference No. RN106200603
Media Air
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				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	28-Jul-2013	27-Feb-2016	2.59	\$647	n/a	\$647
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain the proper authorization for the Site. Date Required is the effective date of the prior agreed order. Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$647

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 CN603942590, RN106200603, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603942590, Moises Enrique Martinez **Classification:** SATISFACTORY **Rating:** 40.00

Regulated Entity: RN106200603, Moy's Custom Paint & Body Shop **Classification:** SATISFACTORY **Rating:** 40.00

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 802 Avenue H, Rosenberg, TX 77471-3008, FORT BEND COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): **AIR QUALITY NON PERMITTED** ID NUMBER R12106200603

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 05, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 05, 2010 to May 05, 2015

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

Name: Rajesh Acharya

Phone: (512) 239-0577

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:** 07/28/2013 **ADMINORDER 2012-2016-AIR-E (1660 Order-Agreed Order With Denial)**

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THSC Chapter 382 382.0518(a)

5C THSC Chapter 382 382.085(b)

Description: Failed to obtain permit authorization for a source of air emissions prior to the commencement of operations of a facility which emits air contaminants.

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOISES ENRIQUE MARTINEZ
DBA MOY'S CUSTOM PAINT &
BODY SHOP;
RN106200603**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2015-0435-AIR-E

On _____, 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. 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 Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates an auto body and paint shop located at 802 Avenue H in Rosenberg, Fort Bend County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on September 4, 2014, an investigator documented that Respondent failed to obtain the proper authorization prior to operating a surface coating facility. Specifically, Respondent continued to operate the surface coating facility without proper authorization since the effective date of TCEQ Agreed Order Docket No. 2012-2016-AIR-E on July 28, 2013, did not submit an administratively complete Form PI-7 or an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE § 116.111, and did not submit written certification that operation has ceased.
3. 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 Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop" (the "EDPRP") in the TCEQ Chief Clerk's office on September 28, 2015.
4. By letter dated September 28, 2015, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on October 5, 2015, as evidenced by the signature on the card.
5. 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. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to obtain the proper authorization prior to operating a surface coating facility, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b); 30 TEX. ADMIN. CODE § 116.110(a); and TCEQ Agreed Order Docket No. 2012-2016-AIR-E, Ordering Provisions Nos. 2.a. and 2.d.
3. As evidenced by Findings of Fact Nos. 3 and 4, 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(b)(1).
4. As evidenced by Finding of Fact No. 5, 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 TCEQ'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 ten thousand five hundred dollars (\$10,500.00) 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 ten thousand five hundred dollars (\$10,500.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations not raised here.
2. The 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 the TCEQ and shall be sent with the notation "Re: Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop; Docket No. 2015 0435 AIR-E" to:

Financial Administration Division, Revenue Operations 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, either submit an administratively complete Form PI-7, or submit an administratively complete permit application, in accordance with 30 TEX. ADMIN. CODE § 116.111, to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3088

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

- b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provision No. 3.a.
- c. Within 180 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.d., that either authorization to operate the Plant has been obtained or that operation has ceased until such time that appropriate authorization has been obtained.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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."

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

4. All relief not expressly granted in this Order is denied.

5. The provisions of this Order shall apply to and be binding upon 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. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines 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 fully executed 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

Date

AFFIDAVIT OF JESS ROBINSON

STATE OF TEXAS

§

COUNTY OF TRAVIS

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§

"My name is Jess Robinson. 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 Moises Enrique Martinez d/b/a Moy's Custom Paint & Body Shop" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 28, 2015.

The EDPRP was mailed to Respondent's last known address on September 28, 2015, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 5, 2015, as evidenced by the signature on the card.

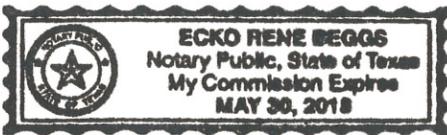
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

Jess Robinson

Jess Robinson, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jess Robinson, 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.

Subscribed and sworn to before me on this 3rd day of November, A.D. 2015.



Notary without Bond

Ecko R Beggs

Notary Public, State of Texas