

Gilbert Molina
RN107510547
Docket No. 2015-0652-LII-E

Order Type:

Default Order

Media:

LII

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

7110 Fallen Trail Drive, San Antonio, Bexar County;
2730 Point Sur, Converse, Bexar County

Type of Operation:

landscape irrigation business

Other Significant Matters:

| | |
|---|-------------|
| Additional Pending Enforcement Actions: | None |
| Past-Due Penalties: | None |
| Past-Due Fees: | None |
| Other: | None |
| Interested Third-Parties: | Complainant |

Texas Register Publication Date: February 12, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$957

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$957

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Gilbert Molina
RN107510547
Docket No. 2015-0652-LII-E

Investigation Information

Complaint Date(s): September 23, 2013
Complaint Information: Alleged that Respondent was not providing a license number in advertisements and that he failed to complete installations.

Date(s) of Investigation: December 11, 2014

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

Date(s) of NOE(s): N/A – Field Citation issued December 9, 2014

Violation Information

Failed to hold an irrigator license prior to selling, designing, installing, altering, repairing, or servicing an irrigation system [TEX. WATER CODE § 37.003, TEX. OCC. CODE § 1903.251, and 30 TEX. ADMIN. CODE § 30.5(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately, cease performing all irrigation services until properly licensed or unless such services are performed under the direct supervision of a licensed irrigator.
2. Within 15 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: November 24, 2015

Date Green Card(s) Signed: November 30, 2015

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Audrey Liter, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Farhaud Abbaszadeh, Enforcement Division, (512) 239-0779

TCEQ Regional Contact: Lynn Bumguardner, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Gilbert Molina, SID 459929, 2nd Floor, Pod BD Cell 01, Bexar County Adult Detention Center, 200 North Comal Street, San Antonio, TX 78207

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

TCEQ

| | | | | |
|--------------|-----------------|-------------|------------------|-------------|
| DATES | Assigned | 13-Apr-2015 | | |
| | PCW | 21-Jul-2015 | Screening | 29-Apr-2015 |
| | | | EPA Due | |

| | |
|--|----------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Gilbert Molina |
| Reg. Ent. Ref. No. | RN107510547 |
| Facility/Site Region | 13-San Antonio |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|---------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 50459 | No. of Violations | 1 |
| Docket No. | 2015-0652-LII-E | Order Type | 1660 |
| Media Program(s) | Irrigators | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Farhaudd Abbaszadeh |
| | | EC's Team | Enforcement Team 4 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$5,000 |

Penalty Calculation Section

| | | |
|---|-------------------|-------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$750 |
|---|-------------------|-------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|------------------|--------------------------------|-----|
| Compliance History | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustment for compliance history.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$207
 Estimated Cost of Compliance: \$186
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$750 |
|-----------------------------|-----------------------|-------|

| | | | |
|---|-------|-------------------|-------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 27.6% | Adjustment | \$207 |
|---|-------|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs associated with compliance with the violation.

| | |
|-----------------------------|-------|
| Final Penalty Amount | \$957 |
|-----------------------------|-------|

| | | |
|-----------------------------------|-------------------------------|-------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$957 |
|-----------------------------------|-------------------------------|-------|

| | | | | |
|-----------------|--|-----------|-------------------|-----|
| DEFERRAL | | Reduction | Adjustment | \$0 |
|-----------------|--|-----------|-------------------|-----|

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 | \$957 |
|------------------------|-------|

Screening Date 29-Apr-2015

Docket No. 2015-0652-LII-E

PCW

Respondent Gilbert Molina

Policy Revision 4 (April 2014)

Case ID No. 50459

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107510547

Media [Statute] Irrigators

Enf. Coordinator Farhaud Abbaszadeh

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 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) 0%

>> **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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 29-Apr-2015 **Docket No.** 2015-0652-LII-E **PCW**
Respondent Gilbert Molina *Policy Revision 4 (April 2014)*
Case ID No. 50459 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN107510547
Media [Statute] Irrigators
Enf. Coordinator Farhaud Abbaszadeh

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 30.5(a), Tex. Water Code § 37.003, and Tex. Occ. Code § 1903.251
Violation Description Failed to hold an irrigator license prior to selling, designing, installing, altering, repairing, or servicing an irrigation system. Specifically, the Respondent did not hold an irrigator license prior to installing an irrigation system at 2730 Point Sur, Converse, Bexar County, Texas.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 15.0% |
| | Potential | x | | | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
| | | | | | 0.0% |

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 this violation.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1 477 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

| | Before NOE/NOV | NOE/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 \$750

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

Estimated EB Amount \$207 **Violation Final Penalty Total** \$957

This violation Final Assessed Penalty (adjusted for limits) \$957

Economic Benefit Worksheet

Respondent Gilbert Molina
Case ID No. 50459
Reg. Ent. Reference No. RN107510547
Media Violation No. Irrigators
 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 | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

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] | \$186 | 21-Aug-2013 | 11-Dec-2014 | 2.22 | \$21 | \$186 | \$207 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost to obtain an irrigator license. The date required is the date the irrigation system was installed. The final date is the record review date.

Approx. Cost of Compliance \$186

TOTAL \$207

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 CN604623439, RN107510547, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604623439, Gilbert Molina

Classification: NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN107510547, MOLINA GILBERT

Classification: NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 7110 FALLEN TRAIL DRIVE SAN ANTONIO, TEXAS 78244-1812, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): WASTEWATER LICENSING NON LICENSED ID NUMBER R13107510547

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

Date Compliance History Report Prepared: April 22, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 22, 2010 to April 22, 2015

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

Name: Farhaud Abbaszadeh

Phone: (512) 239-0779

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:

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GILBERT MOLINA;
RN107510547**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2015-0652-LII-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 chs. 7 and 37, TEX. OCC. CODE ch. 1903, 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 Gilbert Molina ("Respondent").

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

FINDINGS OF FACT

1. Respondent operates a business located at 7110 Fallen Trail Drive in San Antonio, Bexar County, Texas (the "Business") and sells, designs, offers consultations regarding, installs, maintains, alters, repairs, and/or services landscape irrigation systems, for which Respondent is required to be licensed under TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. WATER CODE ch. 37 and TEX. OCC. CODE ch. 1903.
2. During a record review conducted on December 11, 2014, an investigator documented that Respondent failed to hold an irrigator license prior to selling, designing, installing, altering, repairing, or servicing an irrigation system. Specifically, Respondent did not hold an irrigator license prior to installing an irrigation system at 2730 Point Sur, Converse, Bexar County, Texas.
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 Gilbert Molina" (the "EDPRP") in the TCEQ Chief Clerk's office on November 24, 2015.
4. By letter dated November 24, 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 USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on November 30, 2015.
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. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2, Respondent failed to hold an irrigator license prior to selling, designing, installing, altering, repairing, or servicing an irrigation system, in violation of TEX. WATER CODE § 37.003, TEX. OCC. CODE § 1903.251, and 30 TEX. ADMIN. CODE § 30.5(a).
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(c)(2).
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 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 nine hundred fifty-seven dollars (\$957.00) 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 nine hundred fifty-seven dollars (\$957.00) 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 which are 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 TCEQ and shall be sent with the notation "Re: Gilbert Molina; Docket No. 2015-0652-LII-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. Immediately upon the effective date of this Order, cease performing all irrigation services until properly licensed or unless such services are performed under the direct supervision of a licensed irrigator, in accordance with 30 TEX. ADMIN. CODE ch. 30.
 - b. Within 15 days after the effective date of this Order, 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 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 certification 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:

FOSD Water Program, Team Leader
Landscape Irrigation Program, MC 174
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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 Business 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 ("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 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 AUDREY LITER

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

"My name is Audrey Liter. 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 Gilbert Molina" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 24, 2015.

The EDPRP was mailed to Respondent's last known address on November 24, 2015, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on November 30, 2015.

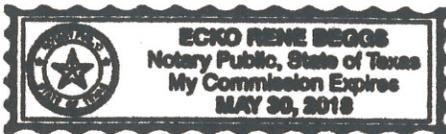
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

Audrey Liter

Audrey Liter, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Audrey Liter, 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.

Subscribed and sworn to before me on this 27th day of January, A.D. 2016.



Notary without Bond

Ecko R Beggs

Notary Public, State of Texas