

Juan Castro
RN106035553
Docket No. 2015-1454-MSW-E

Order Type:

Default Order

Media:

Used Oil

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

29289 Orange Grove Road, La Feria, Cameron County

Type of Operation:

unauthorized used oil collection and storage facility

Other Significant Matters:

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

Texas Register Publication Date: June 17, 2016

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 –Unclassified
Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Juan Castro
RN106035553
Docket No. 2015-1454-MSW-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 25, 2015 through July 21, 2015
Date(s) of NOV(s): N/A
Date(s) of NOE(s): September 21, 2015

Violation Information

1. Failed to prevent the storage of used oil in a manner that endangers the public health or environment and failed to perform response action upon detection of a release of used oil [TEX. HEALTH & SAFETY CODE § 371.041; 30 TEX. ADMIN. CODE § 324.4(1); 40 C.F.R. § 279.22(d); and TCEQ Agreed Order Docket No. 2011-0054-MSW-E, Ordering Provision No. 2.c.i.].
2. Failed to mark or clearly label used oil storage containers with the words "Used Oil" [30 TEX. ADMIN. CODE § 324.1; 40 C.F.R. § 279.22(c)(1); and TCEQ Agreed Order Docket No. 2011-0054-MSW-E, Ordering Provision No. 2.c.ii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Repair or replace the leaking used oil storage containers and remove all contaminated soil from the Facility and dispose of it at an authorized facility; and
 - b. Label all used oil containers with the words "Used Oil".
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: December 2, 2015
Date Green Card(s) Signed: February 23, 2016
Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, (817) 588-5933

TCEQ Regional Contact: Francisco J. Chavero, Jr., Harlingen Regional Office, (956) 425-6010

Respondent Contact: Juan Castro, 500 Gibson Rd., Woodland, CA 95695

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	21-Sep-2015	Screening	22-Sep-2015	EPA Due	
	PCW	23-Sep-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Juan Castro
Reg. Ent. Ref. No.	RN106035553
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	40963	Order Type	Findings
Docket No.	2015-1454-MSW-E	Government/Non-Profit	No
Media Program(s)	Used Oil	Enf. Coordinator	Keith Frank
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

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% Adjustment	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: \$2,154
 Estimated Cost of Compliance: #NAME?
 *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 22-Sep-2015

Docket No. 2015-1454-MSW-E

PCW

Respondent Juan Castro

Policy Revision 4 (April 2014)

Case ID No. 40963

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106035553

Media [Statute] Used Oil

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>)	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)

Unclassified

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 22-Sep-2015
Respondent Juan Castro
Case ID No. 40963
Reg. Ent. Reference No. RN106035553
Media [Statute] Used Oil
Enf. Coordinator Keith Frank

Docket No. 2015-1454-MSW-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s)

Agreed Order Docket No. 2011-0054-MSW-E, Ordering Provision No. 2.c.i., 30 Tex. Admin. Code § 324.4(1), Tex. Health & Safety Code § 371.041, and 40 C.F.R. § 279.22(d)

Violation Description

Failed to prevent the storage of used oil in a manner that endangers the public health or environment and failed to perform response action upon detection of a release of used oil. Specifically, 55-gallon drums containing used oil were not properly sealed and were leaking. Also, an oil-stain was observed on the soil on the north side of the warehouse at the Site.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

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 type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

Sixteen quarterly events are recommended from the December 19, 2011 Order effective date to the September 22, 2015 screening date.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark w th x)"/>

Notes

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

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 Juan Castro
Case ID No. 40963
Reg. Ent. Reference No. RN106035553
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$10,000	18-Jan-2012	23-Apr-2016	4.27	\$2,133	n/a	\$2,133
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to repair or replace the leaking used oil containers, remove all contaminated soils from the Site, and dispose of it at an authorized facility. The date required is 30 days after the effective date of the order, and the 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 \$10,000

TOTAL \$2,133

Screening Date 22-Sep-2015

Docket No. 2015-1454-MSW-E

PCW

Respondent Juan Castro

Policy Revision 4 (April 2014)

Case ID No. 40963

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106035553

Media [Statute] Used Oil

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s)

Agreed Order Docket No. 2011-0054-MSW-E, Ordering Provision No. 2.c.ii., 30 Tex. Admin. Code § 324.1, and 40 C.F.R. § 279.22(c)(1)

Violation Description

Failed to mark or clearly label used oil storage containers with the words "Used Oil". Specifically, approximately 19 containers of used oil were not labeled.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 19

1373 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$4,750

Nineteen single events are recommended (one event for each unlabeled container).

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 \$4,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$5,700

This violation Final Assessed Penalty (adjusted for limits) \$5,700

Economic Benefit Worksheet

Respondent Juan Castro
Case ID No. 40963
Reg. Ent. Reference No. RN106035553
Media Used Oil
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$100	18-Jan-2012	23-Apr-2016	4.27	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to label the used oil containers. The date required is 30 days after the effective date of the order, and the 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

\$100

TOTAL

\$21

The TCEQ is committed to accessibility.

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Compliance History Report

PENDING Compliance History Report for CN603776733, RN106035553, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN603776733, Castro, Juan	Classification:	UNCLASSIFIED	Rating:	-----
Regulated Entity:	RN106035553, Castro Property	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	0	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	29289 ORANGE GROVE RD LA FERIA, TX 78559-6082, CAMERON COUNTY				
TCEQ Region:	REGION 15 - HARLINGEN				
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER HAU0134				
Compliance History Period:	September 01, 2010 to August 31, 2015	Rating Year:	2015	Rating Date:	09/01/2015
Date Compliance History Report Prepared:	September 22, 2015				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	September 22, 2010 to September 22, 2015				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Mike Pace	Phone:	(817) 588-5933		

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: 12/19/2011 ADMINORDER 2011-0054-MSW-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.4(1)
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)
5B THSC Chapter 371, SubChapter A 371.041

Description: Failed to prevent the storage of used oil in a manner that does not endanger the public health or environment and failed to perform response action upon detection of a release of used oil. Specifically, 55-gallon drums containing used oil were not properly sealed and were leaking. Also, an oil-stain was observed on the soil on the north side of the warehouse at the Site.

Classification: Minor

Citation: 30 TAC Chapter 324, SubChapter A 324.1
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)

Description: Failed to mark or clearly label used oil storage containers with the words "Used Oil" in violation of 30 TEX. ADMIN. CODE § 324.1 and 40 CFR § 279.22(c)(1). Specifically, approximately 20 drums of used oil were not labeled.

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
JUAN CASTRO;
RN106035553**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2015-1454-MSW-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. 371, 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 Juan Castro ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns an unauthorized used oil collection and storage facility located at 29289 Orange Grove Road in La Feria, Cameron County, Texas (the "Facility"). The Facility involves the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. During an investigation conducted June 25, 2015 through July 21, 2015, an investigator documented that Respondent:
 - a. Failed to prevent the storage of used oil in a manner that endangers the public health or environment and failed to perform response action upon detection of a release of used oil. Specifically, 55-gallon drums containing used oil were not properly sealed and were leaking. Also, an oil-stain was observed on the soil on the north side of the warehouse at the Facility; and
 - b. Failed to mark or clearly label used oil storage containers with the words "Used Oil". Specifically, approximately 19 containers of used oil were not labeled.
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 Juan Castro" (the "EDPRP") in the TCEQ Chief Clerk's office on December 2, 2015.
4. By letter dated December 2, 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 February 23, 2016, 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. 371 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to prevent the storage of used oil in a manner that endangers the public health or environment and failed to perform response action upon detection of a release of used oil, in violation of TEX. HEALTH & SAFETY CODE § 371.041; 30 TEX. ADMIN. CODE § 324.4(1); 40 C.F.R. § 279.22(d); and TCEQ Agreed Order Docket No. 2011-0054-MSW-E, Ordering Provision No. 2.c.i.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to mark or clearly label used oil storage containers with the words "Used Oil", in violation of 30 TEX. ADMIN. CODE § 324.1; 40 C.F.R. § 279.22(c)(1); and TCEQ Agreed Order Docket No. 2011-0054-MSW-E, Ordering Provision No. 2.c.ii.
4. 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).
5. 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.
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 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.
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 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 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: Juan Castro; Docket No. 2015-1454-MSW-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:
 - i. Repair or replace the leaking used oil storage containers and remove all contaminated soil from the Facility and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 324.4(1) and 40 C.F.R. § 279.22(d); and
 - ii. Label all used oil containers with the words "Used Oil", in accordance with 30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(c)(1).
 - b. Within 45 days after the effective date of this Order, submit written certification, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii. 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:

Waste Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
804 West Jefferson Avenue
Harlingen, Texas 78550-52447

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. 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. 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.
8. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
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 JACQUELYN BOUTWELL

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

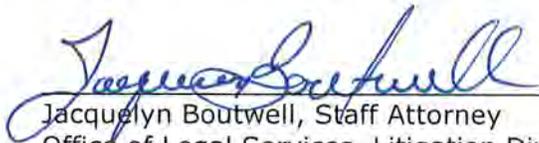
§

"My name is Jacquelyn Boutwell. 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 Juan Castro" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 2, 2015.

The EDPRP was mailed to Respondent's last known address on December 2, 2015, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on February 23, 2016, 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."



Jacquelyn Boutwell, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, 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 31st day of May, A.D. 2016.



Notary without Bond



Notary Public, State of Texas