

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge
December 22, 2008

Les Trobman, General Counsel
Texas Commission on Environmental Quality
PO Box 13087
Austin Texas 78711-3087

**Re: SOAH Docket No. 582-08-4453; TCEQ Docket No. 2007-1653-PST-E; In Re:
In the Matter of an Enforcement Action Against Lupe Mercado;
RN101866036**

Dear Mr. Trobman:

This is my recommendation concerning the exceptions that Lupe Mercado filed to my Proposal for Decision (PFD) in the above case. The Executive Director (ED) filed no exceptions and opposes Mr. Mercado's.

What Mr. Mercado has filed are not, properly speaking, exceptions. He argues that he was not able to attend the hearing and not able to hire an attorney to represent him. But he filed no motion to continue the hearing and, even now, does not ask for a new hearing. Instead, Mr. Mercado presents argument based on facts that are not in evidence and based on them argues that the penalty should be waived or substantially reduced. I recommend that the Commission overrule these exceptions.

Sincerely,

A handwritten signature in cursive script that reads "William G. Newchurch".

William G. Newchurch
Administrative Law Judge

WGN:nl
cc: Mailing List

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
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CHIEF CLERKS OFFICE

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AGENCY: Environmental Quality, Texas Commission on (TCEQ)
STYLE/CASE: LUPE MERCADO
SOAH DOCKET NUMBER: 582-08-4453
REFERRING AGENCY CASE: 2007-1653-PST-E

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ WILLIAM G. NEWCHURCH**

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LUPE MERCADO

xc: Docket Clerk, State Office of Administrative Hearings

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DOCKET NUMBER: 582-08-4453

JUDGE WILLIAM G NEWCHURCH

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VIA REGULAR MAIL

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