

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 56447
Michael Avalos dba ARA Transportation
RN109739268
Docket No. 2018-1035-MSW-E

Order Type:
Default Order

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
in a ditch near United States Highway 290 at Mile Marker 632, Paige, Bastrop County (the “Emergency Response Site”)

Type of Operation:
cargo and freight transporter company

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: January 28, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,250

Total Paid to General Revenue: \$1,250

Total Due to General Revenue: \$0

Compliance History Classifications:
Person/CN - N/A
Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 24, 2017; July 11, 2018

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

Date(s) of NOE(s): July 18, 2018

Michael Avalos dba ARA Transportation

RN109739268

Docket No. 2018-1035-MSW-E

Violation Information

Failed to submit written information describing the details of a discharge or spill and supporting the adequacy of the response action to the appropriate TCEQ Regional Manager within 30 working days of the discovery of the reportable discharge or spill [30 TEX. ADMIN. CODE § 327.5(c)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Within 30 days, submit a report addressing all areas where released lime was observed at the Emergency Response Site.
2. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Technical Requirement No. 1.

Litigation Information**Date Petition(s) Filed:**

February 11, 2019; May 29, 2020; August 11, 2020

Date Green Card(s) Signed:

February 12, 2019; unclaimed; August 18, 2020

Date Answer(s) Filed:

N/A

Contact Information

TCEQ Attorneys: Barrett Hollingsworth, Litigation, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement, (713) 767-3682

TCEQ Regional Contact: Elijah Gandee, Austin Regional Office, (512) 339-2929

Respondent Contact: Michael Avalos, 1000 River Road, San Marcos, Texas 78666

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	23-Jul-2018	Screening	26-Jul-2018	EPA Due	
	PCW	31-Oct-2018				

RESPONDENT/FACILITY INFORMATION

Respondent	Michael Avalos dba ARA Transportation				
Reg. Ent. Ref. No.	RN109739268				
Facility/Site Region	11-Austin	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	56447	No. of Violations	1
Docket No.	2018-1035-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment due to compliance history.

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: \$56
 Estimated Cost of Compliance: \$500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,250
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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:

Final Penalty Amount \$1,250

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,250
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DEFERRAL	0.0%	Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$1,250
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Screening Date 26-Jul-2018

Docket No. 2018-1035-MSW-E

PCW

Respondent Michael Avalos dba ARA Transportation

Policy Revision 4 (April 2014)

Case ID No. 56447

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN109739268

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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%
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 due to 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 26-Jul-2018 **Docket No.** 2018-1035-MSW-E **PCW**
Respondent Michael Avalos dba ARA Transportation *Policy Revision 4 (April 2014)*
Case ID No. 56447 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN109739268
Media [Statute] Municipal Solid Waste
Enf. Coordinator Danielle Porras

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 327.5(c)

Violation Description

Failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ Regional Manager within 30 working days of the discovery of the reportable discharge or spill. Specifically, a report was not submitted to the TCEQ Regional Manager after approximately 500 pounds of lime was discharged at the Emergency Response Site on November 28, 2016.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

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 checked="" type="text" value="x"/>	<input type="text"/>

Notes

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 Michael Avalos dba ARA Transportation
Case ID No. 56447
Reg. Ent. Reference No. RN109739268
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$500	24-Feb-2017	19-May-2019	2.23	\$56	n/a	\$56

Notes for DELAYED costs
 Estimated cost to submit a spill incident report and supporting documentation describing the details of the spill/discharge and the adequacy of the response action. The Date Required is the initial records review date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				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 \$500

TOTAL \$56

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

Compliance History Report for CN605548304, RN109739268, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN605548304, Michael Avalos **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN109739268, Lime Spill Near United States Highway 290 Mile Marker 632 **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: In Ditch at United States Highway 290 at Mile Marker 632 East of Paige Texas Bastrop, TX, Bastrop County

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
EMERGENCY RESPONSE ID NUMBER R11109739268

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: July 26, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 26, 2013 to July 26, 2018

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

Name: Danielle Porras

Phone: (713) 767-3682

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

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 7/26/2013 and 7/26/2018

1*	Date:	04/14/2017	(1403519)	Classification:	Moderate
	Self Report?	NO		For Informational Purposes Only	
	Citation:	30 TAC Chapter 327 327.5(c)			
	Description:	Failure to submit written information describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill.			

* NOVs applicable for the Compliance History rating period 9/1/2012 to 8/31/2017

Appendix B

All Investigations Conducted During Component Period July 26, 2013 and July 26, 2018

		(1403519)	For Informational Purposes Only
Item 1	April 13, 2017**		
		(1437694)	For Informational Purposes Only
Item 2	September 19, 2017		
		(1500383)	For Informational Purposes Only
Item 3	July 17, 2018		

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2012 and 08/31/2017.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MICHAEL AVALOS DBA ARA
TRANSPORTATION;
RN109739268**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2018-1035-MSW-E

On _____, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361 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 Michael Avalos dba ARA Transportation (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owns and operates a cargo and freight transporter company located at 1000 River Road in San Marcos, Hays County, Texas. Respondent spilled municipal solid waste (MSW) onto the road and ditch at United States Highway 290 at Mile Marker 632 in Paige, Bastrop County, Texas (the "Emergency Response Site"). The Emergency Response Site contains and/or involves the management of MSW, as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Emergency Response Site is near or adjacent to water in the state, as defined in TEX. WATER CODE § 26.001(5).
2. During record reviews conducted on February 24, 2017 and July 11, 2018, an investigator documented that Respondent failed to submit written information describing the details of a discharge or spill and supporting the adequacy of the response action to the appropriate TCEQ Regional Manager within 30 working days of the discovery of the reportable discharge or spill. Specifically, a report was not submitted to the TCEQ Regional Manager after approximately 500 pounds of lime were discharged at the Emergency Response Site on November 28, 2016.
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 Michael Avalos dba ARA Transportation” (the “EDPRP”) in the TCEQ Chief Clerk’s office on February 11, 2019.
4. The Executive Director filed the “Executive Director’s First Amended 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 Michael Avalos dba ARA Transportation” (the “EDFARP”) in the TCEQ Chief Clerk’s office on May 29, 2020.
5. By letter dated May 29, 2020, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to USPS.com “Track & Confirm” delivery confirmation records, the EDFARP mailing was not claimed.

6. The Executive Director re-filed the EDFARP in the TCEQ Chief Clerk's office on August 11, 2020.
7. By letter dated August 11, 2020, 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 EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on August 18, 2020, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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. 361, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to submit written information describing the details of a discharge or spill and supporting the adequacy of the response action to the appropriate TCEQ Regional Manager within 30 working days of the discovery of the reportable discharge or spill, in violation of 30 TEX. ADMIN. CODE § 327.5(c).
3. As evidenced by Findings of Fact Nos. 4-7, the Executive Director timely served Respondent with proper notice of the EDFARP, 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. 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.
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 one thousand two hundred fifty dollars (\$1,250.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid one thousand two hundred fifty dollars (\$1,250.00) of the penalty.
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 as set forth in Conclusion of Law No. 6 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all 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. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, submit a report, in accordance with 30 TEX. ADMIN. CODE § 327.5. The report shall address all areas where released

lime was observed at the Emergency Response Site. This report shall be submitted to the addresses listed in Ordering Provision No. 2.b.

- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. 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 operations referenced in this Order.
5. 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.
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 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF BARRETT HOLLINGSWORTH

"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 Michael Avalos dba ARA Transportation" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 11, 2019.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 Michael Avalos dba ARA Transportation" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on May 29, 2020.

The EDFARP was mailed to Respondent's last known address on May 29, 2020, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, the EDFARP mailing was not claimed.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDFARP was re-filed in the TCEQ Chief Clerk's office on August 11, 2020.

The EDFARP was mailed to Respondent's last known address on August 11, 2020, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on August 18, 2020, as evidenced by the signature on the card.

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

"My name is Barrett J. Hollingsworth and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 30th day of December, 2021

A handwritten signature in cursive script that reads "Barrett J. Hollingsworth".

Declarant