

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Erin E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 5, 2023

To: Persons on the Attached Mailing List (Via email only)

Re: Executive Director's Request for Remand regarding a Default Order concerning Jorge Arturo Vasquez De La Garza in Starr County; TCEQ Docket No. 2022-0312-PST-E.

The above-referenced matter is currently scheduled to be considered by the Texas Commission on Environmental Quality at its May 10, 2023, public meeting. However, on May 5, 2023, the Executive Director submitted a request to remand this matter because the Respondent submitted an Answer to the Executive Director's allegations and requested to settle the matter. Pursuant to 30 TAC §10.4, this matter is hereby remanded to the Executive Director.

If you have any questions about this matter, please contact Gregory S. Merrell, Assistant General Counsel, at [Gregory.Merrell@tceq.texas.gov](mailto:Gregory.Merrell@tceq.texas.gov).

Respectfully,

A handwritten signature in cursive script that reads "Mary Smith".

Mary Smith  
General Counsel

Mailing List

Mailing List  
Jorge Arturo Vasquez De La Garza  
TCEQ Docket No. 2022-0312-PST-E

Jorge Arturo Vasquez De La Garza  
4101 Nogal Street  
Rio Grande City, Texas 78582  
956/224-6618  
[delagarza814@gmail.com](mailto:delagarza814@gmail.com)

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Michael Parrish  
Leslie Gann  
Stuart Beckley  
Stephanie McCurley  
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[Kyle.lucas@tceq.texas.gov](mailto:Kyle.lucas@tceq.texas.gov)

## TCEQ Interoffice Memorandum

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**To:** Mary Smith, General Counsel  
Elaine Lucas, Assistant General Counsel

**Thru:** *JSR* Jess Robinson, Senior Attorney  
Litigation Division

**From:** Erandi Ratnayake, Staff Attorney  
*PER* Litigation Division

**Date:** May 5, 2023

**Subject:** **Request for Remand**  
**May 10, 2023 Commission Agenda**  
Item No. 17 - Jorge Arturo Vasquez De La Garza  
Docket No. 2022-0312-PST-E

The Executive Director respectfully requests that the above-referenced item be remanded to the Executive Director. On May 4, 2023, Respondent submitted an Answer to the Executive Director's allegations and requested to settle the matter. Respondent's Answer was filed with the Chief Clerk's Office after agency business hours on May 4, 2023.

Respondent Contact:

Jorge Arturo Vasquez De La Garza  
4101 Nogal Street  
Rio Grande City, Texas 78582  
Phone: (956) 224-6618

Respondent has been notified of this Request for Remand. Please do not hesitate to call me at (512) 239-6515 if you have any questions regarding this matter.

cc: Stephanie McCurley, Enforcement Coordinator  
Jaime A. Garza, Harlingen Regional Office  
Sheldon Wayne, Office of Public Interest Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division  
Gill Valls, Office of the General Counsel  
Jorge Arturo Vasquez De La Garza

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Erin E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 5, 2023

### **Via Electronic Filing**

Laurie Gharis, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, Texas 78711-3087

Re: Jorge Arturo Vasquez De La Garza; RN101689040;  
TCEQ Docket No. 2022-0312-PST-E

Dear Ms. Gharis:

Enclosed for filing is a copy of the Answer for Jorge Arturo Vasquez De La Garza to the Executive Director's Preliminary Report and Petition, in the above-captioned matter. I received the emailed answer on May 4, 2023. If you have any questions or comments, please contact me at (512) 239-3400 or at my email address listed below.

Sincerely,

A handwritten signature in black ink that reads "Erandi Ratnayake".

Erandi Ratnayake, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality  
[Erandi.Ratnayake@tceq.texas.gov](mailto:Erandi.Ratnayake@tceq.texas.gov)

Enclosure

cc: Jorge Arturo Vasquez De La Garza, via email  
Stephanie McCurley, Enforcement Division, via email  
Sheldon Wayne, TCEQ Office of Public Interest Counsel, via email

**From:** [Jorge Delagarza](#)  
**To:** [Prabha Ratnayake](#)  
**Subject:** Re: Texas Commission on Environmental Quality enforcement action against Jorge Arturo Vasquez de la Garza  
**Date:** Thursday, May 4, 2023 3:24:26 PM

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Hi ... I would like to settle the monthly payment on the penalties on my gas station But I need to know if I have any time to get in compliance with Mrs Wood ask me to get done because getting the site check is expensive I can do the lock and certifications but not everything at once .. Thank you...

**Order Type:**

Default Shutdown Order

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

158 Guerra Garza Road, Rio Grande City, Starr County

**Type of Operation:**

underground storage tank (“UST”) system and a convenience store with retail sales of gasoline

**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:**

February 24, 2023

**Comments Received:**

None

**Penalty Information**

**Total Penalty Assessed:**

\$7,200

**Total Paid to General Revenue:**

\$0

**Total Due to General Revenue:**

\$7,200

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:**

No

**Statutory Limit Adjustment:**

None

**Applicable Penalty Policy:**

January 28, 2021

**Investigation Information**

**Complaint Date(s):**

N/A

**Date(s) of Investigation:**

December 21, 2020; December 1, 2021

**Date(s) of NOV(s):**

N/A

**Date(s) of NOE(s):**

January 27, 2022

**Violation Information**

1. Failed to identify and designate for the Facility at least one named individual for each class of operator—Class A, Class B, and Class C [30 TEX. ADMIN. CODE § 334.602(a)].
2. Failed to provide an amended registration for any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(1)(A), (d)(1)(B), and (d)(3)].
3. Failed to assure that all UST record keeping requirements are met [30 TEX. ADMIN. CODE § 334.10(b)(2)].
4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST [30 TEX. ADMIN. CODE § 37.815(a) and (b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately shut down operations of the UST at the Facility:
  - a. Cease dispensing fuel from the UST;
  - b. Cease receiving deliveries of regulated substances into the UST;
  - c. Padlock the dispensers;
  - d. Empty the UST of all regulated substances; and
  - e. Temporarily remove the UST from service.
2. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
3. The UST shall remain out of service as directed by Technical Requirement Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance violation noted in Violation No. 4 has been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
4. Immediately cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
6. Within 15 days submit a detailed written report documenting the steps taken to comply with Technical Requirement Nos. 1, 4 and 5.
7. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately, permanently remove the UST system from service, and within 15 days, shall submit a written report documenting compliance.
8. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
  - a. Begin maintaining all UST records, including tank material verification records, and make them immediately available for inspection upon request by agency personnel;
  - b. Submit an updated UST registration form to reflect the current operational status of the tank and the current name of the Facility;
  - c. Conduct a site check and perform any necessary corrective actions for the temporarily out-of-service UST system at the Facility, or obtain adequate financial assurance for taking

corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the Facility's UST;

- d. Designate, train, and certify at least one named individual as a Class A and Class B operator for the Facility; and
  - e. Obtain a new fuel delivery certificate.
9. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
10. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirement Nos. 8 and 9.

**Litigation Information**

**Date Petition(s) Filed:** November 3, 2022  
**Date Green Card(s) Signed:** November 5, 2022  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jess Robinson, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363  
**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575  
**TCEQ Enforcement Coordinator:** Stephanie McCurley, Enforcement Division, (512) 239-2607  
**TCEQ Regional Contact:** Jaime A. Garza, Harlingen Regional Office, (956) 425-6010  
**Respondent Contact:** Jorge Arturo Vasquez De La Garza, 116 Ebony Street, Rio Grande City, Texas  
78582  
**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	2-Mar-2022	<b>Screening</b>	11-Mar-2022	<b>EPA Due</b>	
	<b>PCW</b>	22-Sep-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Jorge Arturo Vasquez De La Garza
<b>Reg. Ent. Ref. No.</b>	RN101689040
<b>Facility/Site Region</b>	15-Harlingen
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	62104	<b>No. of Violations</b>	4
<b>Docket No.</b>	2022-0312-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Stephanie McCurley
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$6,500</b>
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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.

<b>Compliance History</b>	<b>0.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$781	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,495	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$6,500</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>10.8%</b> Adjustment	<b>\$700</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost associated with Violation No. 4.

<b>Final Penalty Amount</b>	<b>\$7,200</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$7,200</b>
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<b>DEFERRAL</b>	Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$7,200</b>
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**Screening Date** 11-Mar-2022

**Docket No.** 2022-0312-PST-E

**PCW**

**Respondent** Jorge Arturo Vasquez De La Garza

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 62104

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101689040

**Media** Petroleum Storage Tank

**Enf. Coordinator** Stephanie McCurley

### 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)**

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**

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** 11-Mar-2022  
**Respondent** Jorge Arturo Vasquez De La Garza  
**Case ID No.** 62104  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Stephanie McCurley

**Docket No.** 2022-0312-PST-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 334.602(a)

**Violation Description** Failed to identify and designate for the underground storage tank ("UST") Facility at least one named individual for each class of operator - Class A, Class B, and Class C. Specifically, there was no Class A and Class B operator designated for the Facility.

**Base Penalty** \$25,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1 100 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

**Violation Base Penalty** \$1,250

One semiannual event is recommended from the December 1, 2021 record review date to the March 11, 2022 screening date.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	x	

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

**Violation Subtotal** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$9

**Violation Final Penalty Total** \$1,385

**This violation Final Assessed Penalty (adjusted for limits)** \$1,385

## Economic Benefit Worksheet

**Respondent** Jorge Arturo Vasquez De La Garza  
**Case ID No.** 62104  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**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	\$90	21-Dec-2020	27-Nov-2022	1.93	\$9	n/a	\$9
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**

Estimated delayed cost to designate, train, and certify at least one named individual for Class A and Class B operator for the Facility. The Date Required is the initial investigation 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**

Approx. Cost of Compliance

\$90

**TOTAL**

\$9

**Screening Date** 11-Mar-2022 **Docket No.** 2022-0312-PST-E **PCW**  
**Respondent** Jorge Arturo Vasquez De La Garza *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62104 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Stephanie McCurley

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

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="10.0%"/>

**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 EDRP/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** Jorge Arturo Vasquez De La Garza  
**Case ID No.** 62104  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$40	21-Dec-2020	27-Nov-2022	1.93	\$4	n/a	\$4

**Notes for DELAYED costs**

Estimated delayed cost to submit an updated UST Registration form. The Date Required is the initial investigation 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**

Approx. Cost of Compliance

\$40

**TOTAL**

\$4

**Screening Date** 11-Mar-2022 **Docket No.** 2022-0312-PST-E **PCW**  
**Respondent** Jorge Arturo Vasquez De La Garza *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62104 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Stephanie McCurley

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 334.10(b)(2)

**Violation Description** Failed to assure that all UST record keeping requirements are met. Specifically, tank material verification records were not available for review at the time of the investigation.

**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	1.0%

Less than 30% of the rule requirement was not met.

**Adjustment** \$24,750

\$250

**Violation Events**

Number of Violation Events 1 100 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$250

One single event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

**Violation Subtotal** \$250

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

**Estimated EB Amount** \$4 **Violation Final Penalty Total** \$277

**This violation Final Assessed Penalty (adjusted for limits)** \$277

## Economic Benefit Worksheet

**Respondent** Jorge Arturo Vasquez De La Garza  
**Case ID No.** 62104  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**Violation No.** 3

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	\$45	21-Dec-2020	27-Nov-2022	1.93	\$4	n/a	\$4
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
<b>Notes for DELAYED costs</b>	Estimated delayed cost to maintain tank material verification records, and make them immediately available for inspection upon request by TCEQ personnel. The Date Required is the initial investigation 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
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
<b>Notes for AVOIDED costs</b>							

Approx. Cost of Compliance \$45

**TOTAL** \$4

**Screening Date** 11-Mar-2022 **Docket No.** 2022-0312-PST-E **PCW**  
**Respondent** Jorge Arturo Vasquez De La Garza *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62104 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Stephanie McCurley

**Violation Number** 4

**Rule Cite(s)** 30 Tex. Admin. Code § 37.815(a) and (b)

**Violation Description** Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10.0%

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 1 100 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,500

One single event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

**Violation Subtotal** \$2,500

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

**Estimated EB Amount** \$764 **Violation Final Penalty Total** \$2,769

**This violation Final Assessed Penalty (adjusted for limits)** \$2,769

## Economic Benefit Worksheet

**Respondent** Jorge Arturo Vasquez De La Garza  
**Case ID No.** 62104  
**Reg. Ent. Reference No.** RN101689040  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$660	21-Dec-2020	27-Nov-2022	1.93	\$64	n/a	\$64

**Notes for DELAYED costs**

Estimated delayed cost to provide financial assurance for the petroleum UST. The Date Required is the investigation 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)	\$660	21-Dec-2020	11-Mar-2022	1.22	\$40	\$660	\$700

**Notes for AVOIDED costs**

Estimated avoided cost to provide financial assurance for the petroleum UST. The Date Required is the investigation date and the Final Date is the screening date.

**Approx. Cost of Compliance**

\$1,320

**TOTAL**

\$764

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 CN605773076, RN101689040, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN605773076, Jorge Arturo Vasquez De La Garza **Classification:** SATISFACTORY **Rating:** 3.67  
**Regulated Entity:** RN101689040, Carlos Grocery STORE **Classification:** SATISFACTORY **Rating:** 3.67  
**Complexity Points:** 2 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 158 Guerra Garza Road in Rio Grande City, Starr County, Texas  
**TCEQ Region:** REGION 15 - HARLINGEN

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 66977

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** March 10, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 10, 2017 to March 10, 2022

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

**Name:** Stephanie McCurley

**Phone:** (512) 239-2607

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 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.):**

Item 1 February 22, 2021 (1702784)

**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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JORGE ARTURO VASQUEZ DE LA GARZA;  
RN101689040

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2022-0312-PST-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 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the facility’s fuel delivery certificate. The Commission also considered the Executive Director’s Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tank (“UST”) located at 158 Guerra Garza Road in Rio Grande City, Starr County, Texas. The respondent made the subject of this Order is Jorge Arturo Vasquez De La Garza (“Respondent”).

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

### FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), a UST system and a convenience store with retail sales of gasoline located at 158 Guerra Garza Road in Rio Grande City, Starr County, Texas (Facility ID No. 66977) (the “Facility”). The UST at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on December 21, 2020, and a record review conducted on December 1, 2021, an investigator documented that Respondent:
  - a. Failed to identify and designate for the Facility at least one named individual for each class of operator—Class A, Class B, and Class C. Specifically, there was no Class A and Class B operator designated for the Facility;
  - b. Failed to provide an amended registration for any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition. Specifically, Respondent did not amend the registration to reflect the current operational status of the UST system at the Facility and the Facility name;
  - c. Failed to assure that all UST record keeping requirements are met. Specifically, tank material verification records were not available for review at the time of the investigation; and
  - d. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST.
3. By letter dated January 27, 2022, Respondent was provided with written notice of the violations and of TCEQ’s authority to shut down and remove from service the UST not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.

4. 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 Jorge Arturo Vasquez De La Garza” (the “EDPRP”) in the TCEQ Chief Clerk’s office on November 3, 2022.
5. By letter dated November 3, 2022, 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 November 5, 2022, as evidenced by the signature on the card.
6. 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.
7. By letter dated January 6, 2023, the Executive Director provided Respondent with notice of TCEQ’s intent to order the UST at the Facility to be shut down and removed from service if Respondent failed to correct the financial assurance violation within 30 days after Respondent’s receipt of the notice.
8. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the financial assurance violation alleged in Finding of Fact No. 2.d. has been corrected.
9. The UST at the Facility does not have financial assurance as required by TEX. WATER CODE § 26.352(i) and 30 TEX. ADMIN. CODE § 37.815(a) and (b). Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

#### 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 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to identify and designate for the Facility at least one named individual for each class of operator—Class A, Class B, and Class C, in violation of 30 TEX. ADMIN. CODE § 334.602(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide an amended registration for any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(1)(A), (d)(1)(B), and (d)(3).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to assure that all UST record keeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
6. As evidenced by Findings of Fact Nos. 4 and 5, 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).
7. As evidenced by Finding of Fact No. 6, 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.

8. 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.
9. An administrative penalty in the amount of seven thousand two hundred dollars (\$7,200.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. As evidenced by Findings of Fact Nos. 2.a. through 2.d., 3, 7, and 8, Respondent failed to correct documented violations of TCEQ financial assurance requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the UST at the Facility.
11. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overflow prevention for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
12. 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.
13. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
14. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 7.
15. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date it is signed by the Commission.

#### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of the UST at the Facility:
  - a. Cease dispensing fuel from the UST;
  - b. Cease receiving deliveries of regulated substances into the UST;
  - c. Secure the dispensers to prevent access;
  - d. Empty the UST of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
  - e. Temporarily remove the UST from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order, including payment of the administrative penalty in full.

3. The UST at the Facility shall remain out of service, pursuant to TEX. WATER CODE §§ 26.3475(e) and 26.352(i) and as directed by Ordering Provision Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance violation noted in Conclusion of Law No. 5 has been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e., 4 and 5.
7. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

8. Respondent is assessed an administrative penalty in the amount of seven thousand two hundred dollars (\$7,200.00) 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.
9. 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: Jorge Arturo Vasquez De La Garza; Docket No. 2022-0312-PST-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
  - a. Begin maintaining all UST records, including tank material verification records, and make them immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10;

- b. Submit an updated UST registration form to reflect the current operational status of the tank and the current name of the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.7(d) to:
    - Registration and Reporting Section
    - Permitting & Registration Support Division, MC138
    - Texas Commission on Environmental Quality
    - P.O. Box 13087
    - Austin, Texas 78711-3087
  - c. Conduct a site check and perform any necessary corrective actions for the temporarily out-of-service UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.54(e)(5)(B), or obtain adequate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the Facility's UST, in accordance with 30 TEX. ADMIN. CODE § 37.815;
  - d. Designate, train, and certify at least one named individual as a Class A and Class B operator for the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.602(a); and
  - e. Obtain a new fuel delivery certificate from the TCEQ.
- 11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
  - 12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
  - 13. 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."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247

14. All relief not expressly granted in this Order is denied.
15. 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.
16. 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 Enforcement Division at the address listed above.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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 JESS S. ROBINSON

"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 Jorge Arturo Vasquez De La Garza' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 3, 2022.

The EDPRP was mailed to Respondent's last known address on November 3, 2022, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on November 5, 2022, 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.

By letter dated January 6, 2023, sent via first class mail and certified mail, return receipt requested article no. 7021 0350 0000 4995 2463, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the violation pertaining to financial assurance was not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on January 9, 2023.

As of the date of this declaration, I am not aware of any evidence that indicates that Respondent has corrected the financial assurance violation noted during the December 21, 2020, investigation."

"My name is Jess S. Robinson, 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 Williamson County,  
State of Texas,  
on the 30th day of January, 2023

A handwritten signature in blue ink that reads "Jess Robinson".

Declarant