

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 2, 2024

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental Quality  
Attention: Docket Clerk, MC 105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Juan Francsico Espinoza; CN606036929; RN111532149  
Denial of Application for Water Operator D License  
TCEQ Docket No. 2024-0173-LIC

On behalf of the Executive Director, and pursuant to 30 TEX. ADMIN. CODE (TAC) § 70.109, please consider this letter a request for referral of the Executive Director's denial of Juan Francsico Espinoza's application for a Water Operator D license to the State Office of Administrative Hearings ("SOAH") for SOAH to acquire jurisdiction over the contested case.

Accordingly, the Executive Director requests that you file a Request for Docket Case form for the above referenced case. The Executive Director initially notified Mr. Espinoza of his decision on the Water Operator D license application on October 13, 2022. The Executive Director sent a second notice on November 17, 2022. Mr. Espinoza filed a timely response on December 9, 2022.

The denial notifications and hearing request are attached to this letter. According to 30 TAC § 30.38 all hearings regarding Occupational Licenses are to be conducted according to 30 TAC Chapters 70 and 80; 30 TAC § 70.109 provides that the Executive Director may request that the chief clerk refer the cases to SOAH for a contested case hearing. Additionally, please issue the necessary public notice of the hearing.

Please contact me at (512) 239-0133 with any questions you may have. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Alicia Ramirez", with a long horizontal flourish extending to the right.

Alicia Ramirez  
Staff Attorney  
Environmental Law Division

cc: Mr. Juan Francisco Espinoza, 16326 FM 1164 Road, East Bernard, Texas 77435  
Jaya Zyman, P.E., Occupational Licensing & Registration Division, TCEQ  
Tamara Calhoun, Occupational Licensing Section Manager, TCEQ  
Rebecca Moore, Occupational Licensing & Registration Division, TCEQ  
Kenneth Smith, Occupational Licensing & Registration Division, TCEQ  
Garrett Arthur, Public Interest Counsel, TCEQ

bcc: Charmaine Backens, Environmental Law Division, TCEQ  
Todd Galiga, Environmental Law Division, TCEQ  
Aubrey Pawelka, Environmental Law Division, TCEQ  
Melissa Knight, General Law Division, TCEQ

Jon Niermann, *Chairman*  
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Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 13, 2022

Mr. Juan Francisco Espinoza  
16326 FM 1164 Rd  
East Bernard, Texas 77435

RE: Initial Application for Water Operator D License - First Notice

Dear Mr. Espinoza:

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ) received your Water Operator D license application in July 2022. As part of the application review process, the ED is required to review an applicant's criminal history. The review was conducted in accordance with guidelines established by 30 Texas Administrative Code (TAC) Section (§) 30.35. The review of your application revealed that you received a 1<sup>st</sup>-Degree Felony in 1996.

The ED intends to deny your Water Operator D license application because you have been convicted of an offense that directly relates to the license that is also a violent offense as referenced in Texas Occupations Code (TOC) §§ 53.021(a)(1) and (2). The ED also considered the factors in TOC §§ 53.022 and 53.023 and this decision was based on the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring a license to engage in the occupation, the opportunity the license may offer to engage in further criminal activity of the same type as that in which you were previously involved, and the extent and nature of your past criminal activity.

It is the applicant's responsibility to provide to TCEQ evidence regarding the factors listed in TOC § 53.023(a):

- The extent and nature of your past criminal activity;
- Your age when the crime was committed;
- The amount of time that has elapsed since your last criminal activity;
- Your conduct and work activity before and after the criminal activity;
- Evidence of your rehabilitation or rehabilitative effort while incarcerated or after release;
- Evidence of your compliance with any conditions of community supervision parole, or mandatory supervision; and
- Other evidence of your fitness, including letters of recommendation.

Mr. Juan Francisco Espinoza  
Page 2  
October 13, 2022

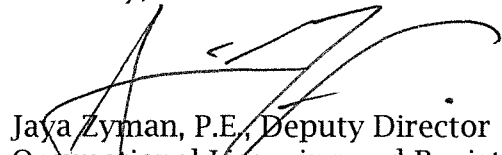
TCEQ must consider any correlation between the elements of the crime and the specific duties of the licensed occupation to determine whether a conviction directly relates to the license. In determining whether your criminal conviction directly relates to the duties and responsibilities of the licensed occupation, the ED considered the following factors:

- the nature and seriousness of the crime;
- the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- the relationship of the crime to the ability, capacity required to perform the duties and discharge the responsibilities of the licensed occupation;
- any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation

You may submit additional relevant information for the ED to consider to the address below, within 30 days of this letter, including but not limited to any evidence relating to any rehabilitation efforts you may have undergone while incarcerated, or after release, and any evidence of compliance with conditions of community supervision, parole, or mandatory supervision, in accordance with TOC § 53.023.

Executive Review Committee  
c/o Occupational Licensing  
TCEQ, MC-178  
PO Box 13087  
Austin, TX 78711-3087

Sincerely,



Jaya Zyman, P.E., Deputy Director  
Occupational Licensing and Registration Division  
Texas Commission on Environmental Quality

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 17, 2022

Mr. Juan Francisco Espinoza  
16326 FM 1164 Rd  
East Bernard, Texas 77435

RE: Initial Application for Water Operator D License- Second and Final Notice

Dear Mr. Espinoza:

This second and final notice is in regard to your Water Operator D license application received by Executive Director (ED) of the Texas Commission of Environmental Quality (TCEQ) in July 2022. As part of the application review process, the ED is required to review an applicant's criminal history. The review was conducted in accordance with guidelines established by 30 Texas Administrative Code (TAC) Section (§) 30.35. Any additional information that you may have submitted in response to our initial notice on October 13, 2022, regarding your rehabilitation efforts and compliance with court ordered requirements was also considered.

The review of your application revealed that you received a 1<sup>st</sup>-Degree Felony in 1996. The ED intends to deny your Water Operator D license application because you have been convicted of an offense that directly relates to the license that is also a violent offense as referenced in Texas Occupations Code (TOC) § 53.021(a)(1) and (2). The ED also considered the factors in TOC §§ 53.022 and 53.023 and this decision was based on the nature and seriousness of the crime, the relationship of the crime to the purposes for requiring a license to engage in the occupation, the opportunity the license may offer to engage in further criminal activity of the same type as that in which you were previously involved, and the extent and nature of your past criminal activity.

**You may request a formal hearing on the denial of your Water Operator D license application. The hearing request must be made in writing and must contain your name, address, and phone number. The Chief Clerk's Office must receive your request no later than 30 calendar days after the United States Post Office delivery date of this letter. You must submit the request to the following address:**

**Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 105  
Austin, TX 78711-3087  
(512) 239-3311 (FAX)**

Mr. Juan Francisco Espinoza  
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November 17, 2022

The formal hearing is known as a contested case hearing and is conducted by the State Office of Administrative Hearings (SOAH). The contested case hearing usually consists of a preliminary hearing and an evidentiary hearing. The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, provide an opportunity for settlement discussions, and address other matters as determined by the administrative law judge. The preliminary hearing will be held unless all timely hearing requests are withdrawn or denied or the parties agree to waive the preliminary hearing.

The evidentiary phase of the contested case hearing, to be held at a later date, will be a legal proceeding similar to a civil trial in state district court to determine whether you should be issued a Water Operator D license. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing.

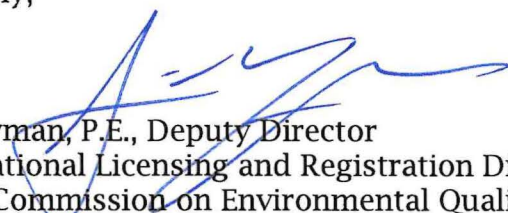
If you fail to appear at the preliminary hearing or evidentiary hearing, the ED will request that the hearing be canceled and that the appeal of the ED's decision be dismissed.

SOAH's rules allow for participation by telephone or videoconference. Permission must be obtained from SOAH at least ten days before the hearing.

If you have additional questions about the hearing process, please contact Alicia Ramirez at [Alicia.Ramirez@tceq.texas.gov](mailto:Alicia.Ramirez@tceq.texas.gov) or at (512) 239-0133.

If you would like to obtain a copy of the applicable TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled "Obtaining TCEQ Rules."

Sincerely,



Jaya Zyman, P.E., Deputy Director  
Occupational Licensing and Registration Division  
Texas Commission on Environmental Quality

December 9, 2022

Re: Juan Francisco Espinoza

16326 FM 1164 Rd

East Bernard, TX 77435

Cell #: 979-398-1902 / Work #: 832-744-6190

TCEQ OCC  
14DEC '22 9:53

To whom it may concern,

I, Juan Francisco Espinoza, am requesting a formal hearing on the denial of my Water Operator D License application. Please reach out to me if additional information is required.

Thank you,

Juan Francisco Espinoza

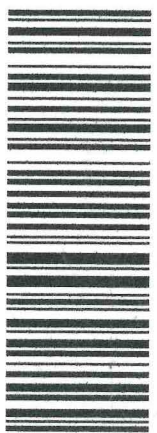


Juan F. Espinoza  
16326 Fm 1164 rd  
East Bernard, TX 77435

5516 22 03041

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OF THE RETURN ADDRESS. FOLD AT DOTTED LINE  
**CERTIFIED MAIL**



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78711-308787

RECEIVED  
DEC 14 2022  
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Texas Commission on Environmental Quality  
P.O. BOX 13087, MC 105  
Austin, Texas 78711-3087



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