

Boyd W. Shaw, Ph.D., Chairman
Carlos Rubinstein, Commissioner
Toby Baker, Commissioner
Zak Covar, Executive Director

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 9, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED-91 7108 2133 3935 1987 1166

Mr. Joel Quintanilla, County Commissioner
Hidalgo County
1902 Joe Stephens Avenue
Weslaco, Texas 78596

Re: Notice of Enforcement Action
Hidalgo County; RN105335459; Air Account No. HNA010J
Docket No. 2012-0841-AIR-E; Enforcement Case No. 44001

FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Quintanilla:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against Hidalgo County for violations of the Texas Health & Safety Code and/or Commission Rules. These violations were discovered during a record review conducted on February 14, 2012, and documented in a letter dated March 30, 2012, from the TCEQ Harlingen Regional Office.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of Three Thousand Six Hundred Dollars (\$3,600). We are proposing a one time offer to defer Seven Hundred Twenty Dollars (\$720) of the administrative penalty if you satisfactorily comply with all the ordering provisions within the time frames listed. Therefore, the administrative penalty to be paid is Two Thousand Eight Hundred Eighty Dollars (\$2,880). The order also identifies the violations that we are addressing and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Austin or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for the Commission's agenda. We believe that handling this matter expeditiously could save Hidalgo County and the TCEQ a significant amount of time, as well as the expense associated with litigation.

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Enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing Hidalgo County, Docket No. 2012-0841-AIR-E) to:

Financial Administration Division, Revenues
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. Please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or pay for a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing a SEP, you must agree to the penalty amount and submit a SEP proposal within 30 days of receipt of this proposed order.** If you are a local government you may have additional SEP options available to assist you with coming into compliance or remediating the harm caused by the violations. A local government is defined as a school district, county, municipality, junior college district, river authority, water district or other special district or other political subdivision created under the constitution or a statute of this state.

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <http://www.tceq.state.tx.us/legal/sep/index.html> or contact the Enforcement Coordinator listed below.

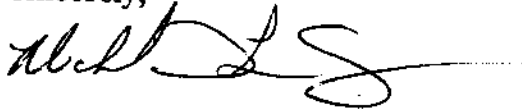
Please note that any agreements we reach are subject to final approval in accordance with 30 TEX. ADMIN. CODE §.70.10(a):

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If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer, including the penalty deferral, will no longer be available. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70 or any other TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled *Obtaining TCEQ Rules*. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission.

For any questions or comments about this matter or to arrange a meeting, please contact Mr. Amancio R. Gutierrez of my staff at (512) 239-3921.

Sincerely,



Michael De La Cruz, Manager
Enforcement Division
Texas Commission on Environmental Quality

MD/arg

Enclosures: Proposed Agreed Order, Return Envelope, *Obtaining TCEQ Rules*, Penalty Calculation Worksheet, Site Compliance History

cc: Mr. Francisco Chavero, Manager, Air Section, Harlingen Regional Office, TCEQ
Mr. Martin Ramirez, Coordinator, Office of Environmental Compliance, Hidalgo County, 1304 S. 25th Ave., Edinburg, TX 78542

Joann

From: Martin Ramirez [martin.ramirez@hchd.org]
Sent: Friday, June 01, 2012 8:59 AM
To: 'Joann'
Subject: Penalty for Air Cuftain Incinerator

1. The Respondent Application to Contribute to a Third Party Supplemental Environmental Project (SEP) Administrator is on the 06/05/12 CC Agenda requesting use of County funds (\$2880.00) to clean up some illegal dumpsites by a third party organization. This will allow County to use the penalty for something in the Precinct instead of paying it to the state. The application has to be at TCEQ by Friday, 06/08/12. The project has to be administered by a third party but I have been in contact with them and they will coordinate with us on deciding the sites that need to be addressed.
2. If the CC approves the item, the application is submitted to TCEQ. After they receive the application, the enforcement coordinator handling the case will rewrite the Agreed Order to indicate that the County will be using the penalty for a SEP.
3. The new Agreed Order is sent to the County/Precinct for signature. This will also have to be placed on the CC Agenda for their approval along with a request for a check for \$2880.00 payable to the third party. The Judge, Commissioner Quintanilla, or Valde Guerra will have to sign the order after the CC approves who will be signing.
4. The signed Agreed Order is sent back and approved by the TCEQ Commissioners. After they approve it, the County will then submit the check to the third party.
5. The third party organization will then coordinate with us to identify the sites that need to be cleaned.

If anyone has any questions concerning this, please have them call me. Thanks Joann.

Martin Ramirez, Coordinator
Office of Environmental Compliance
Hidalgo County
1304 S. 25th Ave.
Edinburg, TX 78542
(956) 318-2840 ext. 260