

**Executive Summary – Enforcement Matter – Case No. 47994
STX Process Equipment LLC
RN105830186
Docket No. 2013-2145-PWS-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

STX Process Equipment, 4819 State Highway 44, Duval County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2014-0216-PWS-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 4, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$606

Amount Deferred for Expedited Settlement: \$606

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 20, 2013

Date(s) of NOE(s): November 20, 2013

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Docket No. 2013-2145-PWS-E

Violation Information

Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 120 days, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the acute MCL for nitrate. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study;
- b. Within 135 days, submit written certification to demonstrate compliance with Ordering Provision a.;
- c. Within 180 days, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology;
- d. Within 180 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding actions taken to provide water which meets the acute MCL for nitrate;
- e. Within 195 days, submit written certification to demonstrate compliance with Ordering Provision c.;
- f. Within 1,095 days, return to compliance with the acute MCL for nitrate; and
- g. Within 1,110 days, submit written certification to demonstrate compliance with Ordering Provision f.

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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Sam Keller, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2678; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Javier Casas, Managing Partner, STX Process Equipment LLC, P.O. Box 82, Freer, Texas 78357
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|-------------|
| DATES | Assigned | 25-Nov-2013 | Screening | 4-Dec-2013 | EPA Due | 31-Mar-2014 |
| | PCW | 11-Dec-2013 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|---------------------------|---------------------------|-------|
| Respondent | STX Process Equipment LLC | | |
| Reg. Ent. Ref. No. | RN105830186 | | |
| Facility/Site Region | 16-Laredo | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|---------------------|------------------------------|--------------------|
| Enf./Case ID No. | 47994 | No. of Violations | 1 |
| Docket No. | 2013-2145-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Sam Keller |
| | | EC's Team | Enforcement Team 2 |
| Admin. Penalty \$ Limit Minimum | \$50 | Maximum | \$1,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for two NOV's with same/similar violations and two NOV's with dissimilar violations. Reduction for a High Performer classification, one Notice of Intent, and one Disclosure of Violations.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 4-Dec-2013

Docket No. 2013-2145-PWS-E

PCW

Respondent STX Process Equipment LLC

Policy Revision 3 (September 2011)

Case ID No. 47994

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105830186

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | 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>) | 2 | 10% |
| | Other written NOVs | 2 | 4% |
| 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 judgements 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>) | 1 | -1% |
| | 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>) | 1 | -2% |
| <i>Please Enter Yes or No</i> | | | |
| 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) 11%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and two NOVs with dissimilar violations. Reduction for a High Performer classification, one Notice of Intent, and one Disclosure of Violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 1%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 1%

Screening Date 4-Dec-2013

Docket No. 2013-2145-PWS-E

PCW

Respondent STX Process Equipment LLC

Policy Revision 3 (September 2011)

Case ID No. 47994

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105830186

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(2) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter ("mg/L") for nitrate. Specifically, it was documented that the single sample concentrations for nitrate were 12 mg/L for the third quarter of 2013 and 11 mg/L for the fourth quarter of 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | X | | | 30.0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0.0% |

Matrix Notes Exceeding the acute MCL for nitrate caused the customers of the Facility to be exposed to pollutants which exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 2 Number of violation days 183

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | X |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$600

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

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

Violation Subtotal \$600

Economic Benefit (EB) for this violation

Estimated EB Amount \$10,279

Statutory Limit Test

Violation Final Penalty Total \$606

This violation Final Assessed Penalty (adjusted for limits) \$606

Economic Benefit Worksheet

Respondent STX Process Equipment LLC

Case ID No. 47994

Reg. Ent. Reference No. RN105830186

Media Public Water Supply

Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|------------|------|-------|---------|----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$40,000 | 30-Sep-2013 | 1-Jun-2017 | 3.67 | \$489 | \$9,790 | \$10,279 |
| 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the acute MCL for nitrate, calculated from the last day of the first monitoring period of non-compliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] 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 [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40,000

TOTAL

\$10,279



Compliance History Report

PUBLISHED Compliance History Report for CN603579632, RN105830186, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603579632, STX Process Equipment LLC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105830186, STX Process Equipment **Classification:** HIGH **Rating:** 0.00

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 4819 STATE HIGHWAY 44, DUVAL COUNTY, TEXAS

TCEQ Region: REGION 16 - LAREDO

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0660021 **AIR QUALITY NON PERMITTED ID NUMBER** R16105830186

STORMWATER PERMIT TXR05BP23

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: January 08, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 08, 2009 to January 08, 2014

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

Name: Sam Keller

Phone: (512) 239-2678

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
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

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.

| | | | |
|---|--------------|----------------------|-----------------------|
| 1 | Date: | 01/17/2013 (1052536) | CN603579632 |
| | Self Report? | NO | Classification: Minor |

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
 Description: Failure to submit well completion data before placing the well into service as a public water system.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
 Description: Failure to provide a liquid water level indicator on the storage tank.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
 Description: Failure to provide the storage tanks with an overflow designed in strict accordance with the current AWWA standards.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to enclose water storage tanks and pressure maintenance facility to prevent intruder access.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
 Description: Failure to cover all air release openings that come in contact with the atmosphere.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failure to house well unit with an intruder-resistant fence to exclude possible contamination or damage to the facility by trespassers.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C)
 Description: Failure to inspect all tanks annually to determine that instrumentation and controls are working properly.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(2)
 Description: Failure to disinfect groundwater prior to storage. The point of application must be ahead of the water storage tank(s) if storage is provided prior to distribution.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(10)
 Description: Failure to provide the storage tank with an access manway of at least 30 inches in diameter.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(v)
 Description: Failure to provide the system with a minimum pressure tank capacity of 220 gallons.

2 Date: 08/12/2013 (1133650) CN603579632
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(2)
 Description: NO3 AMCL 3Q2013 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 12 mg/L collected on 08/05/2013.

3 Date: 08/29/2013 (1093405) CN603579632
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
 Description: Failure to submit well completion data before placing the well into service as a public water system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
 Description: Failure to provide a liquid water level indicator on the storage tank.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
 Description: Failure to provide the storage tanks with an overflow designed in strict accordance with the current AWWA standards.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to enclose water storage tanks and pressure maintenance facility to prevent intruder access.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
 Description: Failure to cover all air release openings that come in contact with the atmosphere.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failure to house well unit with an intruder-resistant fence to exclude possible contamination or damage to the facility by trespassers.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(10)

Description: Failure to provide the storage tank with an access manway of at least 30 inches in diameter.

4 Date: 11/15/2013 (1133650) CN603579632
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(2)
Description: NO3 AMCL 4Q2013 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 11 mg/L collected on 11/04/2013.

F. Environmental audits:

Notice of Intent Date: 03/14/2012 (1021715)

Disclosure Date: 06/27/2012

Viol. Classification: Moderate

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.12(a)
30 TAC Chapter 335, SubChapter C 335.63(a)

Description: Failure to determine generator status

Viol. Classification: Moderate

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11
30 TAC Chapter 335, SubChapter C 335.62

Description: Failure to classify waste as hazardous or non-hazardous based on being toxic flammable, reactive, corrosive or on other characteristics that fit the definitions of haz. waste.

Viol. Classification: Minor

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(e)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.40
40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.44
30 TAC Chapter 335, SubChapter C 335.69
30 TAC Chapter 335, SubChapter C 335.69(g)
30 TAC Chapter 335, SubChapter C 335.70

Description: Failure to maintain records of waste being disposed within the allowed 180 day storage limits for a Small Quantity Generator or records to show storage timing for any other generato status. Failure to maintain records of haz. waste manifest and records of disposal.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(2)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(2)
30 TAC Chapter 335, SubChapter C 335.69(a)(2)
30 TAC Chapter 335, SubChapter C 335.69(a)(3)
30 TAC Chapter 335, SubChapter C 335.69(e)

Description: Failure to store containers of haz. waste satellite accumulation areas or moved to a 180 days storage area within 3 calendar days after containers are filled. Failed to label haz. waste containers with accumulation start dates. Containers are not correctly labeled as haz. or non-haz. waste with the waste material names and accumulation start dates.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)
30 TAC Chapter 335, SubChapter C 335.62

Description: Failure to consistently and correctly classify waste as haz. or non-haz. based on being toxic, flammable, reactive, corrosive or on other characteristics that fit the definitions of haz. waste. Failure to properly secure and stor haz. waste containers of flammable materials.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 261, SubChapter I, PT 261, SubPT A 261.7(b)(1)

Description: Failure to properly handle and dispose of used spray cans. Spray cans are not being disposed of as haz. waste or verified to be RCRA-empty

Viol. Classification: Moderate

Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)
30 TAC Chapter 324, SubChapter A 324.6

Description: Failure tot properly label and manage uded oil totes and drums

Viol. Classification: Moderate

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(5)(iii)
30 TAC Chapter 335, SubChapter C 335.69(f)(5)(C)

Description: Failure to demonstrate that personnel who handle, store and dispose of haz. waste have received RCRA

training.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(a)(1)(ii)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(b)(14)(iii)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description: failure to obtain permit coverage or make a No Exposure Certification

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.4
30 TAC Chapter 106, SubChapter S 106.433

Description: Failure to document aerosol cans used at the site meet the correct TCEQ air permitting de minimis threshold

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter K 106.265
30 TAC Chapter 106, SubChapter A 106.4
30 TAC Chapter 116, SubChapter B 116.110

Description: Failure to document that hand-held manually operated cutting equipment, welding, soldering, and cutting activities, storage and dispensing activities of lube oil, motor oil, and hydraulic oil, industrial gases stored on site, storage tanks (1x1000 gal, 1x300 gal, 2 x 2500 gal) meet the applicable requirements for PBR,

Viol. Classification: Minor

Citation: 30 TAC Chapter 285, SubChapter A 285.3

Description: Failure to have documentation available for review of the septic system onsite or confirmation of the age of the system.

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 | § | BEFORE THE |
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | TEXAS COMMISSION ON |
| STX PROCESS EQUIPMENT LLC | § | |
| RN105830186 | § | ENVIRONMENTAL QUALITY |

AGREED ORDER
DOCKET NO. 2013-2145-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding STX Process Equipment LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 4819 State Highway 44 in Duval County, Texas (the "Facility") that has three service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on November 20, 2013, TCEQ staff documented that the single sample concentrations for nitrate were 12 milligrams per liter ("mg/L") for the third quarter of 2013 and 11 mg/L for the fourth quarter of 2013.
3. The Respondent received notice of the violations on December 5, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the acute maximum contaminant level ("MCL") of 10 mg/L for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Six Hundred Six Dollars (\$606) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Six Hundred Six Dollars (\$606) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, the deferred amount of the administrative penalty shall become immediately due and payable without demand or notice, and the Executive Director may require the Respondent to pay all or part of the deferred administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Hundred Six Dollars (\$606) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: STX Process Equipment LLC, Docket No. 2013-2145-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 120 days after the effective date of this Agreed Order, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the acute MCL for nitrate. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days after the effective date of this Agreed Order. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study. The evaluation shall be sent to the addresses in listed in Ordering Provision No. 2.g.;
 - b. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below to demonstrate compliance with Ordering Provision No. 2.a.;
 - c. Within 180 days after the effective date of this Agreed Order, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology to the addresses listed in Ordering Provision No. 2.g.;
 - d. Within 180 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in

Ordering Provision No. 2.g. below. These reports shall include information regarding actions taken to provide water which meets the acute MCL for nitrate;

- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below to demonstrate compliance with Ordering Provision No. 2.c.;
- f. Within 1,095 days after the effective date of this Agreed Order, return to compliance with the acute MCL for nitrate, in accordance with 30 TEX. ADMIN. CODE § 290.108; and
- g. Within 1,110 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.f. The certification shall be notarized by a State of Texas Notary Public and 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:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and to:

Technical Review and Oversight Team
Water Supply Division, MC 159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission

Pamela Mowbray Jr
 For the Executive Director

4/28/14
 Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of STX Process Equipment LLC. I am authorized to agree to the attached Agreed Order on behalf of STX Process Equipment LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, STX Process Equipment LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
 Signature

4/28/14
 Date

Javier Casas
 Name (Printed or typed)
 Authorized Representative of
 STX Process Equipment LLC

Managing Partner
 Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.