

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 59481
Project Storm, LLC
RN110445749
Docket No. 2020-0840-AIR-E

Page 1 of 2

Order Type:

Default Order

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

2600 Hobbs Road, League City, Galveston County

Type of Operation:

portable air curtain incinerator

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: June 18, 2021

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$5,000

Compliance History Classifications:

Person/CN – Unclassified

Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

**Project Storm, LLC
RN110445749
Docket No. 2020-0840-AIR-E**

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 5, 2019 through June 11, 2020
Date(s) of NOV(s): N/A
Date(s) of NOE(s): June 12, 2020

Violation Information

1. Failed to obtain a federal operating permit ("FOP") prior to operating a portable air curtain incinerator (ACI) [TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b) and 30 TEX. ADMIN. CODE § 122.121].
2. Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days, either permanently cease operating the ACI or submit an administratively complete registration for a Permit by Rule to authorize the ACI and submit an administratively complete FOP application for the ACI.
2. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the registration and FOP application by any deadline specified in writing.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
4. Within 180 days, submit written certification that either authorization to operate the ACI and an FOP have been obtained or that the operation has ceased until such time that the appropriate authorizations are obtained.

Litigation Information

Date Petition(s) Filed: December 23, 2020
Date Green Card(s) Signed: December 26, 2020
Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Litigation Agenda Coordinator: Elisa Guerra, (512) 239-3329

TCEQ Enforcement Coordinator: Johnnie Wu, Enforcement, (512) 239-2524

TCEQ Regional Contact: Joseph Doby, Houston Regional Office, (713) 767-3500

Respondent Contact: Victor Carranza, President, Project Storm, LLC, 4201 Cypress Creek Parkway, Suite 219, Houston, Texas 77068-3440

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	15-Jun-2020	Screening	18-Jun-2020	EPA Due	
	PCW	13-Oct-2020				

RESPONDENT/FACILITY INFORMATION

Respondent	Project Storm, LLC
Reg. Ent. Ref. No.	RN110445749
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	59481	No. of Violations	2
Docket No.	2020-0840-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Johnnie Wu
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustments due to Compliance History.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$846
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$5,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$5,000
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Screening Date	18-Jun-2020	Docket No.	2020-0840-AIR-E	PCW
Respondent	Project Storm, LLC			
Case ID No.	59481			
Reg. Ent. Reference No.	RN110445749			
Media	Air			
Enf. Coordinator	Johnnie Wu			

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

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)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustments due to Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 18-Jun-2020 Respondent Project Storm, LLC Case ID No. 59481 Reg. Ent. Reference No. RN110445749 Media Air Enf. Coordinator Johnnie Wu	Docket No. 2020-0840-AIR-E	PCW <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision March 26, 2014</i>
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Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 122.121 and Tex. Health & Safety Code §§ 382.054 and 382.085(b)	
Violation Description	Failed to obtain a federal operating permit ("FOP") prior to operating an air curtain incinerator ("ACI"). Specifically, the Respondent was operating ACI SN 0200-300 prior to obtaining a FOP.	

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent 0.0%
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent 5.0%

Matrix Notes	100% of the rule requirements were not met.
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Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events	1	197	Number of violation days
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daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Base Penalty \$1,250
weekly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
single event	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	

One single event is recommended.

Good Faith Efforts to Comply

	0.0%	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Ordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
N/A	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>

Notes	The Respondent does not meet the good faith criteria for this violation.
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Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Estimated EB Amount	\$423	Statutory Limit Test
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	\$1,250	Violation Final Penalty Total
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This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Project Storm, LLC
Case ID No. 59481
Reg. Ent. Reference No. RN110445749
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	4-Dec-2019	13-Aug-2021	1.69	\$423	n/a	\$423
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a FOP to authorize ACI SN 0200-300 at the Site. The Date Required is the initial date of non-compliance 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

\$5,000

TOTAL

\$423

Screening Date 18-Jun-2020 Respondent Project Storm, LLC Case ID No. 59481 Reg. Ent. Reference No. RN110445749 Media Air Enf. Coordinator Johnnie Wu	Docket No. 2020-0840-AIR-E	PCW <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision March 26, 2014</i>
Violation Number 2		
Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)		
Violation Description Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent was operating ACI SN 0200-300 prior to obtaining the proper authorization.		
Base Penalty		\$25,000
>> Environmental, Property and Human Health Matrix		
OR	Release	Harm
	Major	Moderate
	Minor	
Actual		
Potential		
Percent		0.0%
>> Programmatic Matrix		
	Falsification	Major
	Moderate	Minor
		x
Percent		5.0%
Matrix Notes	100% of the rule requirements were not met.	
Adjustment		\$23,750
		\$1,250
Violation Events		
Number of Violation Events		3
		197
		Number of violation days
	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	
Violation Base Penalty		\$3,750
Three quarterly events are recommended from the December 4, 2019 investigation date to the June 18, 2020 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		\$3,750
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	\$423	Violation Final Penalty Total
		\$3,750
This violation Final Assessed Penalty (adjusted for limits)		\$3,750

Economic Benefit Worksheet

Respondent Project Storm, LLC
Case ID No. 59481
Reg. Ent. Reference No. RN110445749
Media Air
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	4-Dec-2019	13-Aug-2021	1.69	\$423	n/a	\$423
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization for ACI SN 0200-300. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$423

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 CN603976010, RN110445749, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator:	CN603976010, Project Storm, LLC	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN110445749, SEDONA SECTION 6 SN0206720	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	5	Repeat Violator:	NO
CH Group:	09 - Construction		
Location:	2600 HOBBS RD LEAGUE CITY, TX 77573, GALVESTON COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		
ID Number(s):			
AIR NEW SOURCE PERMITS REGISTRATION	152602L001		
Compliance History Period:	September 01, 2014 to August 31, 2019	Rating Year: 2019	Rating Date: 09/01/2019
Date Compliance History Report Prepared:	June 23, 2020		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	June 23, 2015 to June 23, 2020		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Johnnie Wu	Phone:	(512) 239-2524

Site and Owner/Operator History:

- | | |
|--|----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | NO |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PROJECT STORM, LLC;
RN110445749**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2020-0840-AIR-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 ch. 7, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Project Storm, LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a portable air curtain incinerator ("ACI") located at 2600 Hobbs Road in League City, Galveston County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted November 5, 2019 through June 11, 2020, an investigator documented that Respondent:
 - a. Failed to obtain a federal operating permit ("FOP") prior to operating ACI. Specifically, Respondent was operating ACI SN 0200-300 prior to obtaining a FOP;
 - b. Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, Respondent was operating ACI SN 0200-300 prior to obtaining the proper authorization.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Project Storm, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on December 23, 2020.
4. By letter dated December 23, 2020, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on December 26, 2020, as evidenced by the signature on the card.

5. 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.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, Respondent failed to obtain a FOP prior to operating an ACI, in violation of TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b) and 30 TEX. ADMIN. CODE § 122.121.
3. As evidenced by Finding of Fact No. 2.b, Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a).
4. As evidenced by Findings of Fact Nos. 3 and 4, 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).
5. As evidenced by Finding of Fact No. 5, 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.
6. 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.
7. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of five thousand dollars (\$5,000.00) 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.

2. 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: Project Storm, LLC; Docket No. 2020-0840-AIR-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

3. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, either permanently cease operating the ACI or submit an administratively complete registration for a Permit by Rule to authorize the ACI, in accordance with 30 TEX. ADMIN. CODE ch. 106, and submit an administratively complete FOP application for the ACI, as described by 30 TEX. ADMIN. CODE § 122.134, to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the registration and FOP application by any deadline specified in writing.
- c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a.
- d. Within 180 days after the effective date of this Order, submit written certification that either authorization to operate the ACI and an FOP have been obtained or that the operation has ceased until such time that the appropriate authorizations are obtained.
- e. 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."

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston Texas 77023-1452

4. All relief not expressly granted in this Order is denied.
5. 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 Site operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. 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.
8. 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.
9. 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.
10. 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.

11. 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 CASEY KURNATH

1. "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 Project Storm, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 23, 2020.
2. The EDPRP was mailed to Respondent's last known address on December 23, 2020, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on December 26, 2020, 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."

"My name is Casey M. Kurnath,
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 1st day of June, 2021

Casey Kurnath

Declarant