

IWR Operating, LLC
RN110142809
Docket No. 2018-0962-AIR-E

Order Type:

Default Order (SOAH evidentiary hearing)

Media:

Air

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

4460 McHard Road, Missouri City, Fort Bend County (the “Plant”)

Type of Operation:

oil and natural gas drilling operation

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:	September 29, 2023
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$33,000
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Total Paid to General Revenue:	\$0
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Total Due to General Revenue:	\$33,000
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Compliance History Classifications:

Person/CN - Unsatisfactory
Site/RN - Unclassified

Major Source:	No
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	April 2014
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Investigation Information

Complaint Date(s):	December 7, 2017 - January 10, 2018
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Complaint Information: Between the dates of December 6, 2017, and January 10, 2018, 201 complaints were received regarding a strong odor described as having a hydrogen sulfide, putrid, rotten-egg, natural gas, petroleum, and/or crude oil character.

Date(s) of Investigation:	December 7, 2017, through January 11, 2018
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Date(s) of NOV(s):	N/A
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Date(s) of NOE(s):	June 25, 2018
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IWR Operating, LLC
RN110142809
Docket No. 2018-0962-AIR-E

Violation Information

1. Failed to prevent nuisance odor conditions [TEX. HEALTH & SAFETY CODE § 382.085(a) and (b) and 30 TEX. ADMIN. CODE § 101.4].
2. Caused, suffered, allowed, or permitted emissions of hydrogen sulfide to exceed a net ground level concentration of 0.12 parts per million averaged over any 30-minute period [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 112.32].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Plugged and abandoned the well at the Plant on December 20, 2017.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed:	December 16, 2020
Date(s) of Service:	December 21, 2020
Date Answer(s) Filed:	April 7, 2021
SOAH Referral Date:	May 12, 2021
Hearing Date(s):	
Preliminary hearing:	August 5, 2021
Evidentiary hearing:	July 27, 2023 (defaulted)

Contact Information

TCEQ Attorneys: Clayton Smith, 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: Amanda Diaz, Enforcement Division, (713) 422-8912

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

Respondent Contact: Robert B. Ruston, Jr., Member, IWR Operating, LLC, 16910 Dallas Parkway,
Dallas, Texas 75248

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	2-Jul-2018	Screening	10-Jul-2018	EPA Due	
	PCW	13-Jul-2018				

RESPONDENT/FACILITY INFORMATION

Respondent	IWR Operating, LLC				
Reg. Ent. Ref. No.	RN110142809				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	56376	No. of Violations	2
Docket No.	2018-0962-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Richard Garza
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$30,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **10.0%** Adjustment **Subtotals 2, 3, & 7** **\$3,000**

Notes	Enhancement for Unsatisfactory Performer classification.
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Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts	\$14	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$33,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount **\$33,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$33,000**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY **\$33,000**

Screening Date 10-Jul-2018

Docket No. 2018-0962-AIR-E

PCW

Respondent IWR Operating, LLC

Policy Revision 4 (April 2014)

Case ID No. 56376

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110142809

Media [Statute] Air

Enf. Coordinator Richard Garza

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)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for Unsatisfactory Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date 10-Jul-2018
Respondent IWR Operating, LLC
Case ID No. 56376
Reg. Ent. Reference No. RN110142809
Media [Statute] Air
Enf. Coordinator Richard Garza

Docket No. 2018-0962-AIR-E

PCW

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

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent nuisance odor conditions. Specifically, on December 7, 2017, 160 students at the Baines Middle School experienced health effects and approximately 90 students were sent home, and on December 10, 2017 and December 11, 2017, TCEQ staff conducted odor surveys at off-site locations, detected very strong and highly offensive crude oil/petrochemical odors, and experienced health effects.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	x				30.0%
Potential					

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3 3 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$22,500

Three single events are recommended for the documented nuisance conditions.

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 \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$24,750

This violation Final Assessed Penalty (adjusted for limits) \$24,750

Economic Benefit Worksheet

Respondent IWR Operating, LLC
Case ID No. 56376
Reg. Ent. Reference No. RN110142809
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				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	10-Dec-2017	20-Dec-2017	0.03	\$14	n/a	\$14

Notes for DELAYED costs

Estimated cost to plug and abandon the well in accordance with the Railroad Commission of Texas rules and regulations in order to eliminate odors from the Site from causing nuisance odor conditions and to eliminate hydrogen sulfide ("H2S") emissions from exceeding the net ground level concentration. The Date Required is the initial date an odor was detected and the Final Date is the 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

\$10,000

TOTAL

\$14

Screening Date 10-Jul-2018
Respondent IWR Operating, LLC
Case ID No. 56376
Reg. Ent. Reference No. RN110142809
Media [Statute] Air
Enf. Coordinator Richard Garza

Docket No. 2018-0962-AIR-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Caused, suffered, allowed, or permitted emissions of hydrogen sulfide ("H2S") to exceed a net ground level concentration of 0.12 parts per million ("ppm") averaged over any 30-minute period. Specifically, on December 14, 2017, TCEQ staff conducted air monitoring approximately 0.2 mile downwind from the Site on property used for other than residential, recreational, business, or commercial purposes and detected H2S that ranged from 0.14 ppm to 0.22 ppm by volume averaged over a 30-minute period on eight occasions.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="30.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

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 type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input 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 IWR Operating, LLC
Case ID No. 56376
Reg. Ent. Reference No. RN110142809
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefits in Violation No. 1.

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

\$0

TOTAL

\$0



Compliance History Report

Compliance History Report for CN604515239, RN110142809, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator:	CN604515239, IWR Operating, LLC	Classification:	UNSATISFACTORY	Rating:	120.00
Regulated Entity:	RN110142809, PANTHER EXPLORATION LEASE WELL NO 15733230	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	1	Repeat Violator:	NO		
CH Group:	03 - Oil and Gas Extraction				
Location:	4460 MCHARD RD MISSOURI CITY, TX 77489-5503, FORT BEND COUNTY				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):	AIR QUALITY NON PERMITTED ID NUMBER R12110142809				
Compliance History Period:	September 01, 2013 to August 31, 2018	Rating Year:	2018	Rating Date:	09/01/2018
Date Compliance History Report Prepared:	December 11, 2018				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	December 11, 2013 to December 11, 2018				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Richard Garza	Phone:	(512) 239-2697		

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
IWR OPERATING, LLC;
RN110142809**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2018-0962-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 against the respondent. The respondent made the subject of this Order is IWR Operating, LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent operated an oil and natural gas drilling operation located at 4460 McHard Road in Missouri City, Fort Bend County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted from December 7, 2017, through January 11, 2018, investigators documented that Respondent:
 - a. Failed to prevent nuisance odor conditions. Specifically, on December 7, 2017, 160 students at the Baines Middle School experienced health effects and approximately 90 students were sent home, and on December 10, 2017, and December 11, 2017, TCEQ staff conducted odor surveys at off-site locations, detected very strong and highly offensive crude oil/petrochemical odors, and experienced health effects; and
 - b. Caused, suffered, allowed, or permitted emissions of hydrogen sulfide ("H₂S") to exceed a net ground level concentration of 0.12 parts per million ("ppm") averaged over any 30-minute period. Specifically, on December 14, 2017, TCEQ staff conducted air monitoring approximately 0.2 mile downwind from the Plant on property used for other than residential, recreational, business, or commercial purposes and detected H₂S that ranged from 0.14 ppm to 0.22 ppm by volume averaged over a 30-minute period on eight occasions.
3. The Executive Director recognizes that Respondent plugged and abandoned the well at the Plant on December 20, 2017.
4. 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 IWR Operating, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on December 16, 2020.
5. Respondent filed an answer requesting a hearing on April 7, 2021, and the Executive director requested on May 12, 2021, that the matter be referred to the State Office of Administrative Hearings ("SOAH").

6. On July 13, 2021, the TCEQ Chief Clerk issued a notice of hearing to Respondent via certified mail, return receipt requested, and via first class mail. On March 27, 2023, after a series of agreed continuances, the Administrative Law Judge (“ALJ”) issued an order setting the evidentiary hearing for July 27, 2023. The ALJ’s order was served electronically to Respondent at its email address on record with the court.
7. On July 27, 2023, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested the ALJ find that Respondent was served with proper notice of the hearing and moved for dismissal and remand of the matter to the Executive Director so that a Default Order may be entered by the Commission.
8. On July 27, 2023, the ALJ entered a finding that Respondent was served with proper notice of the hearing and granted the Executive Director’s motion for a default dismissal. On August 14, 2023, SOAH remanded the matter to the Executive Director.

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 prevent nuisance odor conditions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b) and 30 TEX. ADMIN. CODE § 101.4.
3. As evidenced by Finding of Fact No. 2.b., Respondent caused, suffered, allowed, or permitted emissions of H₂S to exceed a net ground level concentration of 0.12 ppm averaged over any 30-minute period, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 112.32.
4. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV’T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.405, 39.413, 39.425, and 80.6.
6. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the evidentiary hearing, and pursuant to TEX. GOV’T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(e), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
7. 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.
8. An administrative penalty in the amount of thirty-three thousand dollars (\$33,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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 thirty-three thousand dollars (\$33,000.00) 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: IWR Operating, LLC; Docket No. 2018-0962-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.
6. 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.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas 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.
8. 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.
9. 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.
10. 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 JESSE CLAYTON SMITH

“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 IWR Operating, LLC’ (the ‘EDPRP’) was filed in the TCEQ Chief Clerk’s office on December 16, 2020.

Respondent filed an answer requesting a hearing on April 7, 2021, and the Executive Director requested on May 12, 2021, that this matter be referred to the State Office of Administrative Hearings (‘SOAH’). On July 13, 2021, the TCEQ Chief Clerk issued notice of hearing to Respondent via certified mail, return receipt requested, and via first class mail. On March 27, 2023, after a series of agreed continuances, the Administrative Law Judge (‘ALJ’) issued an order setting the evidentiary hearing for July 27, 2023. The ALJ’s order was served electronically to Respondent at its email address of record.

Respondent failed to appear at the hearing on July 27, 2023. At that hearing, I requested the ALJ find that Respondent was served with proper notice of the hearing and moved for dismissal and remand of the matter to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e), which gives the ALJ authority to remand the case back to TCEQ for informal disposition on a default basis in accordance with TEX. GOV’T CODE § 2001.056.

The ALJ granted the Executive Director’s motion for default dismissal in an order issued on July 27, 2023. SOAH remanded the case to the Executive Director on August 14, 2023, so that TCEQ may dispose of this case on a default basis.”

"My name is Jesse Clayton Smith, 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 25th day of August, 2023

A handwritten signature in black ink, appearing to read "Jesse Clayton Smith".

Declarant