

Executive Summary – Enforcement Matter – Case No. 59285
San Miguel Electric Cooperative, Inc.
RN100226539
Docket No. 2020-0622-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

San Miguel Electric Plant, 6200 Farm-to-Market Road 3387, Atascosa County

Type of Operation:

Electric power generation plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 7, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,600

Amount Deferred for Expedited Settlement: \$3,720

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$14,880

Name of SEP: Texas Congress of Parents and Teachers dba Texas PTA (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 18, 2020 and March 23, 2020

Date(s) of NOE(s): April 30, 2020

Executive Summary – Enforcement Matter – Case No. 59285
San Miguel Electric Cooperative, Inc.
RN100226539
Docket No. 2020-0622-AIR-E

Violation Information

1. Failed to comply with the emissions limit and maximum allowable emissions rate ("MAER"). Specifically, during a stack test conducted on February 14, 2019, the Respondent exceeded the particulate matter ("PM") emissions limit of 0.03 pound per million British thermal units ("lb/MMBtu") by 0.094 lb/MMBtu and exceeded the PM MAER of 437.5 pounds per hour ("lbs/hr") by 271 lbs/hr from February 14, 2019 through March 6, 2019 for the Boiler Stack, Emissions Point Number ("EPN") 6, resulting in approximately 130,080 pounds of unauthorized PM emissions [30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, 116.115(b)(2)(F) and (c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.10005(a), New Source Review ("NSR") Permit No. 4180A, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O85, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") Nos. 1 and 10, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the emissions limit and MAER. Specifically, during a stack test conducted from November 13, 2019 through November 14, 2019, the Respondent exceeded the PM emissions limit of 0.03 lb/MMBtu by 0.203 lb/MMBtu and exceeded the PM MAER of 437.5 lbs/hr by 322 lbs/hr from November 13, 2019 through November 14, 2019 for the Boiler Stack, EPN 6, resulting in approximately 15,456 pounds of unauthorized PM emissions [30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, 116.115(b)(2)(F) and (c), and 122.143(4), 40 CFR § 63.10005(a), NSR Permit No. 4180A, SC No. 1, FOP No. O85, GTC and STC Nos. 1 and 10, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On April 25, 2019, conducted a stack test demonstrating compliance with the PM emissions limit and the PM hourly MAER for the Boiler Stack, EPN 6; and
- b. On January 14, 2020, conducted a stack test demonstrating compliance with the PM emissions limit and the PM hourly MAER for the Boiler Stack, EPN 6.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

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San Miguel Electric Cooperative, Inc.
RN100226539
Docket No. 2020-0622-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Johnnie Wu, Enforcement Division,
Enforcement Team 5, MC 219, (512) 239-2524; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

SEP Third-Party Administrator: Texas PTA, 408 West 11th Street, Austin, Texas
78701

Respondent: Mike Kezar, General Manager, San Miguel Electric Cooperative, Inc.,
P.O. Box 280, Jourdanton, Texas 78026

Nathan L. Brown, General Manager, San Miguel Electric Cooperative, Inc., P.O. Box
280, Jourdanton, Texas 78026

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	27-Apr-2020	Screening	30-Apr-2020	EPA Due	20-Oct-2020
	PCW	7-May-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	San Miguel Electric Cooperative, Inc.
Reg. Ent. Ref. No.	RN100226539
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	59285	No. of Violations	2
Docket No.	2020-0622-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	Yes
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	\$15,000
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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	49.0%	Adjustment	Subtotals 2, 3, & 7	\$7,350
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Notes: Enhancement for five NOVs with dissimilar violations and two orders containing a denial of liability. Reduction for one notice of intent to conduct an audit.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$3,750
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$145
 Estimated Cost of Compliance: \$16,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,600
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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:

Final Penalty Amount	\$18,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,600
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,720
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$14,880
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Screening Date 30-Apr-2020

Docket No. 2020-0622-AIR-E

PCW

Respondent San Miguel Electric Cooperative, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59285

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100226539

Media Air

Enf. Coordinator Johnnie Wu

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	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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>)	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>)	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) 49%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with dissimilar violations and two orders containing a denial of liability. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 49%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 49%

Screening Date 30-Apr-2020

Docket No. 2020-0622-AIR-E

PCW

Respondent San Miguel Electric Cooperative, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59285

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100226539

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 113.1300, 116.115(b)(2)(F) and (c), and 122.143(4), 40 Code of Federal Regulations ("CFR") § 63.10005(a), New Source Review ("NSR") Permit No. 4180A, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O85, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") Nos. 1 and 10, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the emissions limit and maximum allowable emissions rate ("MAER"). Specifically, during a stack test conducted on February 14, 2019, the Respondent exceeded the particulate matter ("PM") emissions limit of 0.03 pound per million British thermal units ("lb/MMBtu") by 0.094 lb/MMBtu and exceeded the PM MAER of 437.5 pounds per hour ("lbs/hr") by 271 lbs/hr from February 14, 2019 through March 6, 2019 for the Boiler Stack, Emissions Point Number ("EPN") 6, resulting in approximately 130,080 pounds of unauthorized PM emissions.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (30.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not 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 1 20 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$7,500

One monthly event is recommended for the period of non-compliance from February 14, 2019 through March 6, 2019.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

Table with columns: Extraordinary, Ordinary, N/A and rows: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

Notes The Respondent achieved compliance on April 25, 2019, prior to the Notice of Enforcement ("NOE") dated April 30, 2020.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$77

Violation Final Penalty Total \$9,300

This violation Final Assessed Penalty (adjusted for limits) \$9,300

Economic Benefit Worksheet

Respondent San Miguel Electric Cooperative, Inc.
Case ID No. 59285
Reg. Ent. Reference No. RN100226539
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)	\$8,000	14-Feb-2019	25-Apr-2019	0.19	\$77	n/a	\$77

Notes for DELAYED costs

Estimated delayed cost to conduct a stack test demonstrating compliance with the PM emissions limit and PM hourly MAER for EPN 6. Date Required is the initial date of non-compliance 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

\$8,000

TOTAL

\$77

Screening Date 30-Apr-2020

Docket No. 2020-0622-AIR-E

PCW

Respondent San Miguel Electric Cooperative, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59285

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100226539

Media Air

Enf. Coordinator Johnnie Wu

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 113.1300, 116.115(b)(2)(F) and (c), and 122.143(4), 40 CFR § 63.10005(a), NSR Permit No. 4180A, SC No. 1, FOP No. O85, GTC and STC Nos. 1 and 10, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the emissions limit and MAER. Specifically, during a stack test conducted from November 13, 2019 through November 14, 2019, the Respondent exceeded the PM emissions limit of 0.03 lb/MMBtu by 0.203 lb/MMBtu and exceeded the PM MAER of 437.5 lbs/hr by 322 lbs/hr from November 13, 2019 through November 14, 2019 for the Boiler Stack, EPN 6, resulting in approximately 15,456 pounds of unauthorized PM emissions.

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 significant amounts of pollutants which do not 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 1 2 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the period of non-compliance from November 13, 2019 through November 14, 2019.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

Extraordinary		
Ordinary	x	
N/A		

Notes

The Respondent achieved compliance on January 14, 2020, prior to the NOE dated April 30, 2020.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$9,300

This violation Final Assessed Penalty (adjusted for limits) \$9,300

Economic Benefit Worksheet

Respondent San Miguel Electric Cooperative, Inc.
Case ID No. 59285
Reg. Ent. Reference No. RN100226539
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)	\$8,000	13-Nov-2019	14-Jan-2020	0.17	\$68	n/a	\$68

Notes for DELAYED costs

Estimated delayed cost to conduct a stack test demonstrating compliance with the PM emissions limit and PM hourly MAER for EPN 6. Date Required is the initial date of non-compliance 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

\$8,000

TOTAL

\$68

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Compliance History Report

Compliance History Report for CN600132278, RN100226539, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600132278, San Miguel Electric Cooperative, Inc. **Classification:** SATISFACTORY **Rating:** 13.57
Regulated Entity: RN100226539, SAN MIGUEL ELECTRIC PLANT **Classification:** SATISFACTORY **Rating:** 12.88
Complexity Points: 19 **Repeat Violator:** NO
CH Group: 06 - Electric Power Generation
Location: 6200 FM 3387 ATASCOSA COUNTY, TX
TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER AG0007G
AIR NEW SOURCE PERMITS PERMIT 4180A
AIR NEW SOURCE PERMITS REGISTRATION 54118
AIR NEW SOURCE PERMITS REGISTRATION 99921
AIR NEW SOURCE PERMITS REGISTRATION 123647
USED OIL EPA ID TXD088484852

STORMWATER PERMIT TXR05L582

WASTEWATER EPA ID TX0083445

AIR EMISSIONS INVENTORY ACCOUNT NUMBER AG0007G

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD088484852

TAX RELIEF ID NUMBER 20020

TAX RELIEF ID NUMBER 16328

TAX RELIEF ID NUMBER 21931

TAX RELIEF ID NUMBER 17921

TAX RELIEF ID NUMBER 16334

TAX RELIEF ID NUMBER 18884

TAX RELIEF ID NUMBER 18885

TAX RELIEF ID NUMBER 17920

TAX RELIEF ID NUMBER 20461

TAX RELIEF ID NUMBER 22561

AIR OPERATING PERMITS PERMIT 85

AIR NEW SOURCE PERMITS ACCOUNT NUMBER AG0007G

AIR NEW SOURCE PERMITS AFS NUM 4801300007

AIR NEW SOURCE PERMITS REGISTRATION 101700

USED OIL REGISTRATION A85466

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 31434

WASTEWATER PERMIT WQ0002043000

WASTEWATER PERMIT 2E0000151

POLLUTION PREVENTION PLANNING ID NUMBER P01686

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 31434

TAX RELIEF ID NUMBER 16943

TAX RELIEF ID NUMBER 16942

TAX RELIEF ID NUMBER 21932

TAX RELIEF ID NUMBER 16333

TAX RELIEF ID NUMBER 16335

TAX RELIEF ID NUMBER 16332

TAX RELIEF ID NUMBER 16329

TAX RELIEF ID NUMBER 20460

TAX RELIEF ID NUMBER 17922

TAX RELIEF ID NUMBER 22559

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: January 07, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 07, 2016 to January 07, 2021

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? YES
- 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:

1 Effective Date: 08/22/2018 ADMINORDER 2017-0200-MLM-E (1660 Order-Agreed Order With Denial)
Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 8c PERMIT

Description: Failed to report all instances of deviations, and FOP No. O85, General Terms and Conditions. Specifically, the deviation report for the January 1, 2016 through March 31, 2016, reporting period did not include deviations for exceeding the 10% opacity limit for the Lignite Truck Hopper, EPN FE-1, in first calendar quarter of 2016.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 16c PERMIT

Description: Failed to submit an initial notification no later than 24 hours after discovery of an excess opacity event. Specifically, the initial notification for Incident No. 243974 was due by December 27, 2015 at 6:42 p.m. but was not submitted.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to comply with the permitted hourly emissions rate. Specifically, from April 23, 2015 to February 17, 2016, the Boiler Stack, EPN 6, exceeded the permitted carbon monoxide ("CO") emissions rate of 1,640 pounds per hour ("lbs/hr") by an average of 716.32 lbs/hr for 255 hours on 60 days, resulting in the unauthorized release of 182,644 pounds of CO.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: 8 C PERMIT

Description: Failed to comply with the permitted opacity limit. Specifically, on February 16, 2016, the Respondent conducted a monthly visible emissions reading and recorded that the Lignite Truck Hopper, Emissions Point No. ("EPN") FE-1, exceeded the permitted opacity limit of 10%, averaged over a six-minute period, by 3.125%.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 8 C PERMIT

Description: Failed to comply with the permitted opacity limit

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 16c PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, the Respondent experienced a 61% opacity from the Boiler Stack, EPN 6, during an excess opacity event (Incident No. 243974) that began on December 26, 2015, and lasted two hours and 36 minutes. The event occurred when an unscheduled shutdown to repair the "F" Power Center failed. Since the excess opacity event was not properly reported, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.22

2 Effective Date: 07/16/2019 ADMINORDER 2018-1285-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Conditions OP

Description: Failure to report all permit deviations.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Conditions OP

Description: Failure to report all permit deviations.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

30 TAC Chapter 113, SubChapter C 113.1300

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUUUU 63.9991(a)(1)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: NSR Permit No. 4180A SC No. 2 PERMIT

Description: Failure to prevent an exceedance of the 30-boiler operating day rolling average emissions limit for Mercury.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	January 22, 2016	(1316770)
Item 2	February 25, 2016	(1313417)
Item 3	March 24, 2016	(1239180)
Item 4	April 25, 2016	(1321656)
Item 5	May 06, 2016	(1329512)
Item 6	May 20, 2016	(1315525)
Item 7	May 25, 2016	(1346840)
Item 8	July 11, 2016	(1343928)
Item 9	July 20, 2016	(1360235)
Item 10	August 17, 2016	(1349274)
Item 11	August 22, 2016	(1366677)
Item 12	December 14, 2016	(1381736)
Item 13	December 27, 2016	(1391629)
Item 14	January 24, 2017	(1398252)
Item 15	January 31, 2017	(1376250)
Item 16	February 15, 2017	(1405145)
Item 17	February 16, 2017	(1383126)
Item 18	March 21, 2017	(1412229)
Item 19	April 18, 2017	(1418727)
Item 20	April 25, 2017	(1388297)
Item 21	May 11, 2017	(1426391)
Item 22	June 13, 2017	(1415145)
Item 23	June 19, 2017	(1432383)
Item 24	July 12, 2017	(1440936)
Item 25	August 18, 2017	(1444626)
Item 26	September 08, 2017	(1451212)
Item 27	October 11, 2017	(1457085)
Item 28	October 31, 2017	(1421756)
Item 29	November 13, 2017	(1462538)
Item 30	December 14, 2017	(1468933)
Item 31	January 08, 2018	(1475640)
Item 32	February 13, 2018	(1487823)
Item 33	March 15, 2018	(1491510)
Item 34	April 16, 2018	(1494758)
Item 35	April 25, 2018	(1460838)
Item 36	May 10, 2018	(1501710)
Item 37	June 18, 2018	(1508803)
Item 38	July 12, 2018	(1515130)
Item 39	August 17, 2018	(1521181)
Item 40	September 17, 2018	(1528365)
Item 41	October 15, 2018	(1534704)

Item 42	November 14, 2018	(1542538)
Item 43	December 13, 2018	(1546301)
Item 44	January 11, 2019	(1562976)
Item 45	February 15, 2019	(1562974)
Item 46	March 13, 2019	(1562975)
Item 47	April 10, 2019	(1548644)
Item 48	April 15, 2019	(1572922)
Item 49	May 09, 2019	(1585446)
Item 50	June 13, 2019	(1585447)
Item 51	July 11, 2019	(1594283)
Item 52	August 19, 2019	(1600574)
Item 53	August 30, 2019	(1582346)
Item 54	September 12, 2019	(1607479)
Item 55	October 14, 2019	(1614357)
Item 56	November 14, 2019	(1620148)
Item 57	November 20, 2019	(1598431)
Item 58	December 17, 2019	(1627495)
Item 59	January 16, 2020	(1635128)
Item 60	February 13, 2020	(1641743)
Item 61	February 21, 2020	(1631124)
Item 62	March 09, 2020	(1648257)
Item 63	March 16, 2020	(1624617)
Item 64	April 14, 2020	(1654609)
Item 65	April 21, 2020	(1638519)
Item 66	May 07, 2020	(1638526)
Item 67	May 12, 2020	(1661175)
Item 68	June 09, 2020	(1667704)
Item 69	July 14, 2020	(1674652)
Item 70	August 12, 2020	(1681424)
Item 71	September 16, 2020	(1688001)

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: 02/19/2020 (1622626)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.62
Description: Failure of a generator of solid waste to determine if that waste is hazardous.

- 2 Date: 04/27/2020 (1629802)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
5C THSC Chapter 382 382.085(b)
Description: Failure to create and maintain final records of non-reportable emission events.
(Category B3)

- 3 Date: 04/27/2020 (1639266)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 113, SubChapter C 113.1300
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(d)(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT LLL 63.1354(b)(1)
5C THSC Chapter 382 382.085(b)
Description: Emissions Test Report was submitted late.

- 4 Date: 05/12/2020 (1611538)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)
Description: Failure to submit their annual waste summary on or before the due date.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(h)
Description: Failure to notify the TCEQ of hazardous and industrial solid waste stream
recycling activities by the facility.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.10(c)

Description: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.23(a)
Failed to sign the generator section of the waste manifest.

5 Date: 09/30/2020 (1694353)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

Notice of Intent Date: 02/20/2017 (1396813)
No DOV Associated

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
SAN MIGUEL ELECTRIC
COOPERATIVE, INC.
RN100226539**

**§
§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2020-0622-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding San Miguel Electric Cooperative, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an electric power generation plant located at 6200 Farm-to-Market Road 3387 in Atascosa 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$18,600 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$3,720 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER. CODE § 7.067, \$14,880 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental

Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. 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.
8. 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.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On April 25, 2019, conducted a stack test demonstrating compliance with the particulate matter ("PM") emissions limit and the PM hourly maximum allowable emissions rate ("MAER") for the Boiler Stack, Emissions Point Number ("EPN") 6.
 - b. On January 14, 2020, conducted a stack test demonstrating compliance with the PM emissions limit and the PM hourly MAER for the Boiler Stack, EPN 6.

II. ALLEGATIONS

1. During a record review conducted on March 23, 2020, an investigator documented that the Respondent failed to comply with the emissions limit and MAER, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, 116.115(b)(2)(F) and (c), and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.10005(a), New Source Review ("NSR") Permit No. 4180A, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O85, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") Nos. 1 and 10, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, during a stack test conducted on February 14, 2019, the Respondent exceeded the PM emissions limit of 0.03 pound per million British thermal units ("lb/MMBtu") by 0.094 lb/MMBtu and exceeded the PM MAER of 437.5 pounds per hour ("lbs/hr") by 271

lbs/hr from February 14, 2019 through March 6, 2019 for the Boiler Stack, EPN 6, resulting in approximately 130,080 pounds of unauthorized PM emissions.

2. During a record review conducted on March 18, 2020, an investigator documented that the Respondent failed to comply with the emissions limit and MAER, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, 116.115(b)(2)(F) and (c), and 122.143(4), 40 CFR § 63.10005(a), NSR Permit No. 4180A, SC No. 1, FOP No. O85, GTC and STC Nos. 1 and 10, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, during a stack test conducted from November 13, 2019 through November 14, 2019, the Respondent exceeded the PM emissions limit of 0.03 lb/MMBtu by 0.203 lb/MMBtu and exceeded the PM MAER of 437.5 lbs/hr by 322 lbs/hr from November 13, 2019 through November 14, 2019 for the Boiler Stack, EPN 6, resulting in approximately 15,456 pounds of unauthorized PM emissions.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: San Miguel Electric Cooperative, Inc., Docket No. 2020-0622-AIR-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 implement and complete an SEP as set forth in Section I, Paragraph No. 4. The amount of \$14,880 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.

5. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 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.
7. This 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 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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 effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

3/2/2022

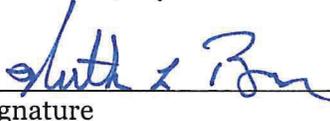
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

6/16/21

Date

Nathan L. Brown
Name (Printed or typed)
Authorized Representative of
San Miguel Electric Cooperative, Inc.

General Manager

Title

If mailing address has changed, please check this box and provide the new address below:

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

Attachment A

Docket Number: 2020-0622-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	San Miguel Electric Cooperative, Inc.
Payable Penalty Amount:	\$14,880
SEP Offset Amount:	\$14,880
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Congress of Parents and Teachers dba Texas PTA
Project Name:	<i>Texas PTA Clean School Bus Replacement Program</i>
Location of SEP:	Texas Air Quality Control Region 217: San Antonio - Preference for Atascosa County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Congress of Parents and Teachers dba Texas PTA** for the *Texas PTA Clean School Bus Replacement Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the contribution will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to 100% of the purchase price of a model year 2010 or newer bus to replace a diesel school bus that is model year 2002 or older. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

San Miguel Electric Cooperative, Inc.
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate many respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Congress of Parents and Teachers SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas PTA
408 West 11th Street
Austin, Texas 78701

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.