

Steven Levy
RN102991767
Docket No. 2020-0656-PST-E

Order Type:
Default Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
554 State Highway 22, Whitney, Hill County

Type of Operation:
an out-of-service underground storage tank ("UST") system

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: March 11, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed:	\$9,168
Total Paid to General Revenue:	\$0
Total Due to General Revenue:	\$9,168

Compliance History Classifications:

Person/CN - Unclassified
Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: January 25, 2017 and April 7, 2020

Date(s) of NOV(s): N/A

Date(s) of NOE(s): April 20, 2020

Steven Levy
RN102991767
Docket No. 2020-0656-PST-E

Violation Information

1. Failed to designate, train, and certify at least one named individual for each class of Operator - Class A, Class B, and Class C - for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].
2. Failed to provide corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.49(a)(1) and 334.54(b)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer owns the Facility as of October 23, 2020.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed: June 17, 2021; August 17, 2021

Date Green Card(s) Signed: unclaimed; unclaimed

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jennifer Peltier, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Alain Elegbe, Enforcement, (512) 239-6924

TCEQ Regional Contact: David Mann, Waco Regional Office, (254) 751-0335

Respondent Contact: Steven Levy, 6345 Lansdowne Circle, Boynton Beach, Florida 33472

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	27-Apr-2020	Screening	1-May-2020	EPA Due	
	PCW	1-Mar-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	Steven Levy				
Reg. Ent. Ref. No.	RN102991767				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	59310	No. of Violations	2
Docket No.	2020-0656-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Alain Elegbe
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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 adjustment for 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	\$3,216	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,125	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	22.2% Adjustment	\$1,668
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with the Violation Nos. 1 and 2.
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Final Penalty Amount	\$9,168
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,168
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DEFERRAL	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	\$9,168
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Screening Date 1-May-2020

Docket No. 2020-0656-PST-E

PCW

Respondent Steven Levy

Policy Revision 4 (April 2014)

Case ID No. 59310

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102991767

Media Petroleum Storage Tank

Enf. Coordinator Alain Elegbe

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)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for 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 1-May-2020

Docket No. 2020-0656-PST-E

PCW

Respondent Steven Levy

Policy Revision 4 (April 2014)

Case ID No. 59310

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102991767

Media Petroleum Storage Tank

Enf. Coordinator Alain Elegbe

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.602(a)

Violation Description Failed to designate, train, and certify at least one named individual for each class of Operator - Class A, Class B, and Class C - for the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential		X			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3 Number of violation days 199

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended from the April 7, 2020 investigation date to the October 23, 2020 ownership change 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 \$128

Violation Final Penalty Total \$4,584

This violation Final Assessed Penalty (adjusted for limits) \$4,584

Economic Benefit Worksheet

Respondent Steven Levy
Case ID No. 59310
Reg. Ent. Reference No. RN102991767
Media Petroleum Storage Tank
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$125	7-Apr-2020	23-Oct-2020	0.55	\$3	\$125	\$128

Notes for AVOIDED costs

Estimated avoided cost to design, train, and certify a Class A, Class B, and Class C Operator for the Facility.
 The Date Required is the investigation date and the Final Date is the ownership change date.

Approx. Cost of Compliance

\$125

TOTAL

\$128

Screening Date 1-May-2020

Docket No. 2020-0656-PST-E

PCW

Respondent Steven Levy

Policy Revision 4 (April 2014)

Case ID No. 59310

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102991767

Media Petroleum Storage Tank

Enf. Coordinator Alain Elegbe

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(1) and 334.54(b)(3) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection for the UST system. Specifically, the rectifier had no power.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 199 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$3,750

One single event is recommended.

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 \$1,540

Violation Final Penalty Total \$4,584

This violation Final Assessed Penalty (adjusted for limits) \$4,584

Economic Benefit Worksheet

Respondent Steven Levy
Case ID No. 59310
Reg. Ent. Reference No. RN102991767
Media Petroleum Storage Tank
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							

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)	\$1,500	7-Apr-2020	23-Oct-2020	0.55	\$40	\$1,500	\$1,540
Notes for AVOIDED costs Estimated avoided cost to provide power supply to the rectifier and test the corrosion protection system for the UST system at the Facility. The Date Required is the investigation date and the Final Date is the ownership change date.							

Approx. Cost of Compliance	\$1,500	TOTAL	\$1,540
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Compliance History Report

Compliance History Report for CN605412303, RN102991767, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605412303, Steven Levy

Classification: UNCLASSIFIED

Rating: -----

Regulated Entity: RN102991767, The Store

Classification: UNCLASSIFIED

Rating: -----

Complexity Points: 2

Repeat Violator: NO

CH Group: 14 - Other

Location: 554 State Highway 22 Whitney, Hill County, Texas 76692-490

TCEQ Region: REGION 09 - WACO

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 3055

PETROLEUM STORAGE TANK NON REGISTERED ID
NUMBER R09102991767

Compliance History Period: September 01, 2015 to August 31, 2020

Rating Year: 2020

Rating Date: 09/01/2020

Date Compliance History Report Prepared: February 13, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 13, 2016 to February 13, 2021

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

Name: Alain Elegbe

Phone: (512) 239-6924

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 July 15, 2020 (1663371)

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 2/13/2016 and 2/13/2021

1	Date:	04/20/2017	(1389411)	Classification:	Moderate
	Self Report?	NO		For Informational Purposes Only	
	Citation:	30 TAC Chapter 334, SubChapter A 334.7(d)(3)			
	Description:	Failure to update Central Registry tank registration information to update owner contact information.			
				Classification:	Moderate
	Self Report?	NO		For Informational Purposes Only	
	Citation:	30 TAC Chapter 334, SubChapter C 334.49(c)(4)(C)			
	Description:	Failure to provide Cathodic Protection to the UST's located at the Facility.			
				Classification:	Moderate
	Self Report?	NO		For Informational Purposes Only	
	Citation:	30 TAC Chapter 334, SubChapter N 334.602(a) 30 TAC Chapter 334, SubChapter N 334.603(b) 30 TAC Chapter 334, SubChapter N 334.606			
	Description:	Failure to provide documentation demonstrating the Facility has a Class A/B operator license available for review.			

* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

Appendix B

All Investigations Conducted During Component Period February 13, 2016 and February 13, 2021

Item 1	April 14, 2017**	(1389411)	For Informational Purposes Only
Item 2	August 25, 2017**	(1435761)	For Informational Purposes Only
Item 3	June 19, 2018**	(1497689)	For Informational Purposes Only
Item 4	January 13, 2020**	(1622481)	For Informational Purposes Only
Item 5	April 20, 2020**	(1644421)	For Informational Purposes Only
Item 6*	July 15, 2020**	(1663371)	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
STEVEN LEVY;
RN102991767**

**§
§
§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2020-0656-PST-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 chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Steven Levy (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owned, as defined in 30 TEX. ADMIN. CODE § 334.2(78), an out-of-service underground storage tank (“UST”) system located at 554 State Highway 22 in Whitney, Hill County, Texas (the Facility”). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During commenced on January 25, 2017 and a compliance investigation April 7, 2020, investigators documented that Respondent:
 - a. Failed to designate, train, and certify at least one named individual for each class of Operator – Class A, Class B, and Class C – for the Facility; and
 - b. Failed to provide corrosion protection for the UST system. Specifically, the rectifier had no power.
3. The Executive Director recognizes that Respondent no longer owns the Facility as of October 23, 2020.
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 Steven Levy” (the “EDPRP”) in the TCEQ Chief Clerk’s office on June 17, 2021.
5. The EDPRP was mailed to Respondent’s last known address on June 17, 2021, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.”
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk’s office on August 17, 2021.
7. By letter dated August 17, 2021, sent to Respondent’s last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.” The first-class mail has not been returned, indicating that Respondent received notice of the EDPRP.

8. 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. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to designate, train, and certify at least one named individual for each class of operator for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.49(a)(1) and 334.54(b)(3).
4. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 8, 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 nine thousand one hundred sixty-eight dollars (\$9,168.00) 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 nine thousand one hundred sixty-eight dollars (\$9,168.00) 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: Steven Levy; Docket No. 2020-0656-PST-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 ("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.
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 JENNIFER PELTIER

“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 Steven Levy” (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on June 17, 2021.

The EDPRP was mailed to Respondent’s last known address on June 17, 2021, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.”

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk’s office on August 17, 2021.

The EDPRP was mailed to Respondent’s last known address on August 17, 2021, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.” The first-class mail has not been returned, indicating that Respondent received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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 Jennifer Peltier 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 Travis County,
State of Texas,
on the 11th day of March, 2022

A handwritten signature in black ink, appearing to read "Jennifer Peltier".

Declarant