

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59332
US READYMIX INC
RN109761759
Docket No. 2020-0670-WQ-E

Order Type:
Default Order

Media:
WQ

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
approximately 0.3 miles east of the intersection of Old Hardy Road and Broadway Avenue, on the north side of Broadway Avenue, near Conroe, Montgomery County (the “Plant”)

Type of Operation:
concrete batch plant

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: May 6, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$42,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$42,000

Compliance History Classifications:
Person/CN - High
Site/RN - High

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 12, 2020

Date(s) of NOV(s): November 15, 2019

Date(s) of NOE(s): May 1, 2020

Violation Information

Failed to submit monitoring results at intervals specified in its permit [30 TEX. ADMIN. CODE § 305.125(1) and (17), and Texas Pollutant Discharge Elimination System General Permit No. TXG112102, Part IV, Standard Permit Condition No. 7.f.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Submit discharge monitoring reports (“DMRs”) for the monthly monitoring periods ending September 30, 2017, through December 31, 2019;
 - b. Submit DMRs for the annual monitoring periods ending December 31, 2017, and December 31, 2018;
 - c. Submit the annual whole effluent toxicity testing results for the monitoring periods ending December 31, 2017, and December 31, 2018; and
 - d. Develop and implement procedures and conduct employee training to ensure DMRs are electronically submitted as stated in the permit.
2. Within 45 days submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: September 23, 2021

Date Green Card(s) Signed: October 27, 2021

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jess Robinson, 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: Harley Hobson, Enforcement Division, (512) 239-1337

TCEQ Regional Contact: Westin Massey, Houston Regional Office, (713) 767-3500

Respondent Contact: Somaiah Kurre, President, US READYMIX INC, 1367 Woodcrest Drive, Houston, Texas 77018

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	11-May-2020	Screening	12-May-2020	EPA Due	
	PCW	11-May-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	US READYMIX INC
Reg. Ent. Ref. No.	RN109761759
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59332	No. of Violations	1
Docket No.	2020-0670-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harley Hobson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$40,000
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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	-5.0%	Adjustment	Subtotals 2, 3, & 7	-\$2,000
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Notes: Enhancement for one NOV with same/similar violations. Reduction for High Performer classification.

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	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$137
 Estimated Cost of Compliance: \$950
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$38,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.5%	Adjustment	\$4,000
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to offset the High Performer reduction.

Final Penalty Amount	\$42,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$42,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$42,000
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Screening Date 12-May-2020

Docket No. 2020-0670-WQ-E

PCW

Respondent US READYMIX INC

Policy Revision 4 (April 2014)

Case ID No. 59332

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN109761759

Media Water Quality

Enf. Coordinator Harley Hobson

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>)	1	5%
	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations. Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -5%

Screening Date 12-May-2020
Respondent US READYMIX INC
Case ID No. 59332
Reg. Ent. Reference No. RN109761759
Media Water Quality
Enf. Coordinator Harley Hobson

Docket No. 2020-0670-WQ-E

PCW

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

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17), and Texas Pollutant Discharge Elimination System General Permit No. TXG112102, Part IV, Standard Permit Conditions No. 7.f

Violation Description Failed to submit monitoring results at intervals specified in the permit. Specifically, the discharge monitoring reports ("DMRs") for the monthly monitoring periods ending September 30, 2017 through December 31, 2019 were not submitted by the 20th day of the following month. Also, the annual DMRs and annual results for whole effluent toxicity testing for monitoring periods ending December 31, 2017 and December 31, 2018 were not submitted by March 31st of the following year.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		X			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 32 935 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$40,000

Thirty-two single events are 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 \$40,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$137

Violation Final Penalty Total \$42,000

This violation Final Assessed Penalty (adjusted for limits) \$42,000

Economic Benefit Worksheet

Respondent US READYMIX INC
Case ID No. 59332
Reg. Ent. Reference No. RN109761759
Media Water Quality
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	\$250	12-Mar-2020	21-Apr-2021	1.11	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$700	20-Oct-2017	21-Apr-2021	3.50	\$123	n/a	\$123

Notes for DELAYED costs

Estimated Training/Sampling cost to develop and implement procedures and conduct employee training to ensure DMRs are electronically submitted as stated in the permit. The date required is the investigation date and the final date is the estimated date of compliance.

Estimated cost to submit the DMRs for the monthly monitoring periods ending September 30, 2017 through December 31, 2019, the DMRs for the annual monitoring periods ending December 31, 2017 and December 31, 2018, and the annual whole effluent toxicity testing results for the monitoring periods ending December 31, 2017 and December 31, 2018. The date required is the due date of the first DMR not submitted and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$950

TOTAL

\$137

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN605182781, RN109761759, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605182781, US READYMIX INC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN109761759, CONROE CBP **Classification:** HIGH **Rating:** 0.00

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: Approximately 0.3 miles east of the intersection of Old Hardy Road and Broadway Avenue, on the north side of Broadway Avenue in Conroe, Montgomery County Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): WASTEWATER PERMIT TXG112102

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

Date Compliance History Report Prepared: November 19, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 19, 2015 to November 19, 2020

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

Name: Harley Hobson

Phone: (512) 239-1337

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.

- 1 Date: 11/15/2019
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
- Description: Failure to submit effluent monitoring results at the intervals specified in the permit.

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 11/19/2015 and 11/19/2020

1* Date: 11/15/2019

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: Failure to submit effluent monitoring results at the intervals specified in the permit.

Appendix B

All Investigations Conducted During Component Period November 19, 2015 and November 19, 2020

(1637451)

Item 1 May 06, 2020**

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
US READYMIX INC;
RN109761759**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2020-0670-WQ-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 and corrective action of the respondent. The respondent made the subject of this Order is US READYMIX INC (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owns and operates a concrete batch plant located approximately 0.3 miles east of the intersection of Old Hardy Road and Broadway Avenue, on the north side of Broadway Avenue, near Conroe, Montgomery County, Texas (the “Plant”).¹ The Plant is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on March 12, 2020, TCEQ staff documented that Respondent failed to submit monitoring results at intervals specified in its permit. Specifically, the discharge monitoring reports (“DMRs”) for the monthly monitoring periods ending September 30, 2017, through December 31, 2019, were not submitted by the 20th day of the following month. Also, the annual DMRs and annual results for whole effluent toxicity testing for monitoring periods ending December 31, 2017, and December 31, 2018, were not submitted by March 31st of the following year.
3. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of US READYMIX INC” (the “EDPRP”) in the TCEQ Chief Clerk’s office on September 23, 2021.
4. By letter dated September 23, 2021, sent to Respondent’s last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt “green card,” Respondent received notice of the EDPRP by October 1, 2021, as evidenced by the signature and date of return receipt on the card.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to submit monitoring results at intervals specified in its permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17),

¹ The Plant’s GPS coordinates are 30.183629, -95.436861.

and Texas Pollutant Discharge Elimination System General Permit No. TXG112102, Part IV, Standard Permit Condition No. 7.f.

3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. 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 the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of forty-two thousand dollars (\$42,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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 forty-two thousand dollars (\$42,000.00) 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 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 the TCEQ and shall be sent with the notation "Re: US READYMIX INC; Docket No. 2020-0670-WQ-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Submit DMRs for the monthly monitoring periods ending September 30, 2017, through December 31, 2019;
 - ii. Submit DMRs for the annual monitoring periods ending December 31, 2017, and December 31, 2018;
 - iii. Submit the annual whole effluent toxicity testing results for the monitoring periods ending December 31, 2017, and December 31, 2018; and
 - iv. Develop and implement procedures and conduct employee training to ensure DMRs are electronically submitted as stated in the permit.

- b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iv. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

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

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

and:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines Respondent has not complied with one or more of the terms or conditions in this Order.

9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

