

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59409  
Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC.  
RN106832967  
Docket No. 2020-0770-AIR-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions over the prior five-year period for the same violations.

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

4602 South Tower Road, Santa Fe, Galveston County (the “Site”)

**Type of Operation:**

poultry farm dumpster

**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:** August 11, 2023

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$14,250

**Total Paid to General Revenue:** \$425

**Total Due to General Revenue:** \$13,825

Payment Plan: \$395 each for 35 months

**Compliance History Classifications:**

Karen S. Adams	Kenneth W. Adams	Kenz Henz LLC
Person/CN - N/A	Person/CN - N/A	Person/CN - N/A
Site/RN - N/A	Site/RN - N/A	Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** January 16, 2020

*Complaint Information:* Complaint alleges “horrible” odors coming from on-site dumpster operated by Respondents.

**Date(s) of Investigation:** January 16, 2020 through April 23, 2020

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

**Date(s) of NOE(s):** May 5, 2020 and May 20, 2020

**Violation Information**

Failed to prevent nuisance odor conditions [TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), and 30 TEX. ADMIN. CODE § 101.4.]

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

Began disposing of broken eggs at the local landfill instead of placing broken eggs in the dumpster in order to minimize odors from the dumpster at the Site on June 27, 2020.

**Technical Requirements:**

None

**Litigation Information**

**Date Petition(s) Filed:** November 19, 2021; April 28, 2023  
**Date(s) of Service:** November 22, 2021; unclaimed  
**Date Answer(s) Filed:** December 1, 2021  
**SOAH Referral Date:** November 14, 2022  
**Hearing Date(s):**  
    Preliminary hearing: January 26, 2023 (waived)  
    Evidentiary hearing: July 20, 2023  
**Settlement Date:** July 7, 2023

**Contact Information**

**TCEQ Attorneys:** Cynthia Sirois, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

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

**TCEQ Enforcement Coordinator:** Yuliya Dunaway, Enforcement Division, (210) 403-4077

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

**Respondent Contact:** Kenneth W. Adams, Property Owner, Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC., 15701 Fir Road, Santa Fe, Texas 77517

**Respondent's Attorney:** Scott Youngblood, 2004 N. Main Street, Pearland, Texas 77581



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	27-May-2020	<b>Screening</b>	29-May-2020	<b>EPA Due</b>	
	<b>PCW</b>	29-Jun-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC.
<b>Reg. Ent. Ref. No.</b>	RN106832967
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59409	<b>No. of Violations</b>	1
<b>Docket No.</b>	2020-0770-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Yuliya Dunaway
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$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.

<b>Compliance History</b>	5.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$750
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondents do not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$1,500
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$100	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$14,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$14,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$14,250
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$14,250
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**Screening Date** 29-May-2020

**Docket No.** 2020-0770-AIR-E

**PCW**

**Respondent** Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC.

*Policy Revision 4 (April 2014)*

**Case ID No.** 59409

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN106832967

**Media** Air

**Enf. Coordinator** Yuliya Dunaway

### 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)**

N/A

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same/similar violations.

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 5%

Screening Date 29-May-2020

Docket No. 2020-0770-AIR-E

PCW

Respondent Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC.

Policy Revision 4 (April 2014)

Case ID No. 59409

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106832967

Media Air

Enf. Coordinator Yuliya Dunaway

Violation Number 1

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

Violation Description Failed to prevent nuisance odor conditions. Specifically, an investigator conducted off-site odor surveys at the complainant's site or equal distance on March 5, 2020, March 6, 2020, March 9, 2020, and March 10, 2020 and detected very light to very strong and highly offensive putrefying animal odors, resulting in the documentation of nuisance odor conditions.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			x		15.0%
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 as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4 4 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$15,000

Four single events are recommended for each day an odor was detected that contributed to the documented nuisance odor conditions.

Good Faith Efforts to Comply

10.0%

Reduction \$1,500

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes The Respondents achieved compliance on June 27, 2020, after the Notice of Enforcement dated May 20, 2020.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$14,250

This violation Final Assessed Penalty (adjusted for limits) \$14,250

## Economic Benefit Worksheet

**Respondent** Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC.  
**Case ID No.** 59409  
**Reg. Ent. Reference No.** RN106832967  
**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)	\$100	5-Mar-2020	27-Jun-2020	0.31	\$2	n/a	\$2

#### Notes for DELAYED costs

Estimated cost to begin disposing of the broken eggs at the local landfill instead of placing the broken eggs in the dumpster in order to minimize odors from the dumpster at the Site from causing nuisance odor conditions. The Date Required is the first date an odor was detected and the Final Date is the date of compliance.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$2



# Compliance History Report

Compliance History Report for CN604345066, RN106832967, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604345066, Kenneth W. Adams	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Regulated Entity:</b>	RN106832967, KENZ HENZ AND HATCHERY - DUMPSTER	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	4602 S TOWER RD, SANTA FE, GALVESTON COUNTY, TX				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				
<b>ID Number(s):</b>					
<b>AIR QUALITY NON PERMITTED ID NUMBER</b>	R106832967	<b>AIR QUALITY NON PERMITTED ID NUMBER</b>	R12106832967		
<b>Compliance History Period:</b>	September 01, 2014 to August 31, 2019	<b>Rating Year:</b>	2019	<b>Rating Date:</b>	09/01/2019
<b>Date Compliance History Report Prepared:</b>	May 28, 2020				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	May 28, 2015 to May 28, 2020				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Yuliya Dunaway			<b>Phone:</b>	(210) 403-4077

## 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.):**

**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: 01/02/2020 (1603162)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382.085(b)  
Description: Failure to control a nuisance odor condition. (Category B18(g)(1))

**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



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# Compliance History Report

Compliance History Report for CN605779008, RN106832967, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

<b>Customer, Respondent, or Owner/Operator:</b>	CN605779008, Karen S. Adams	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Regulated Entity:</b>	RN106832967, KENZ HENZ AND HATCHERY - DUMPSTER	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	4602 S TOWER RD, SANTA FE, GALVESTON COUNTY, TX				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				
<b>ID Number(s):</b>	AIR QUALITY NON PERMITTED ID NUMBER R106832967      AIR QUALITY NON PERMITTED ID NUMBER R12106832967				
<b>Compliance History Period:</b>	September 01, 2014 to August 31, 2019	<b>Rating Year:</b>	2019	<b>Rating Date:</b>	09/01/2019
<b>Date Compliance History Report Prepared:</b>	May 28, 2020				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	May 28, 2015 to May 28, 2020				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Yuliya Dunaway			<b>Phone:</b>	(210) 403-4077

**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.):**

**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:	01/02/2020	(1603162)		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 101, SubChapter A 101.4 5C THSC Chapter 382.085(b)			
	Description:	Failure to control a nuisance odor condition. (Category B18(g)(1))			

**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



# Compliance History Report

Compliance History Report for CN605652197, RN106832967, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

**Customer, Respondent, or Owner/Operator:** CN605652197, Kenz Henz LLC. **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN106832967, KENZ HENZ AND HATCHERY - DUMPSTER **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 4602 S TOWER RD, SANTA FE, GALVESTON COUNTY, TX

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**AIR QUALITY NON PERMITTED ID NUMBER** R106832967 **AIR QUALITY NON PERMITTED ID NUMBER** R12106832967

**Compliance History Period:** September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

**Date Compliance History Report Prepared:** May 28, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 29, 2015 to May 29, 2020

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Yuliya Dunaway **Phone:** (210) 403-4077

## 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.):**

**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: 01/02/2020 (1603162)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382.085(b)  
Description: Failure to control a nuisance odor condition. (Category B18(g)(1))

**F. Environmental audits:**  
N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT  
ACTION CONCERNING  
KENNETH W. ADAMS, KAREN S. ADAMS,  
AND KENZ HENZ LLC.;  
RN106832967

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2020-0770-AIR-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC. ("Respondents") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents, represented by Scott Youngblood, presented this Order to the Commission.

1. Respondents understand that they have certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondents agree to waive all notice and procedural rights which might otherwise be authorized or required in this action.
2. It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon Respondents.

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

### II. FINDINGS OF FACT

1. Respondents own and operate a poultry farm dumpster located at 4602 South Tower Road in Santa Fe, Galveston County, Texas (the "Site"). The Site consists of one or more sources, as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted from January 16, 2020, through April 23, 2020, an investigator documented that Respondents failed to prevent nuisance odor conditions. Specifically, an investigator conducted off-site odor surveys at the complainant's site or equal distance on March 5, 2020, March 6, 2020, March 9, 2020, and March 10, 2020, and detected very light to very strong and highly offensive putrefying animal odors, resulting in the documentation of nuisance odor conditions.
3. The Executive Director recognizes that Respondents began disposing of broken eggs at the local landfill instead of placing broken eggs in the dumpster in order to minimize odors from the dumpster at the Site on June 27, 2020.

### III. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2, Respondents failed to prevent nuisance odor conditions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), and 30 TEX. ADMIN. CODE § 101.4.
3. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondents 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.
4. An administrative penalty in the amount of fourteen thousand two hundred fifty dollars (\$14,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondents paid four hundred twenty-five dollars (\$425.00) of the penalty. The remaining amount of thirteen thousand eight hundred twenty-five dollars (\$13,825.00) shall be paid in thirty-five (35) monthly payments of three hundred ninety-five dollars (\$395.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondents failed to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondents' failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondents to timely and satisfactorily comply with all the terms of this Order.

#### IV. ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondents' compliance with all 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. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Kenneth W. Adams, Karen S. Adams, and Kenz Henz LLC., Docket No. 2020-0770-AIR-E" to:  

Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
4. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. This Order, issued by the Commission, shall not be admissible against Respondents in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
7. 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. 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.
10. 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

*Erin E. Chanalop*

8/28/23

For the Executive Director

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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

*Karen S. Adams*  
Signature - Karen S. Adams  
15701 Fir Road  
Santa Fe, Texas 77517

7/7/23  
Date

*Kenneth W. Adams*  
Signature - Kenneth W. Adams  
15701 Fir Road  
Santa Fe, Texas 77517

7/7/23  
Date

*Kenneth W. Adams*  
Signature

7/7/23  
Date

Kenneth W. Adams  
Name (Printed or typed)  
Authorized representative of Kenz Henz LLC.  
15701 Fir Road  
Santa Fe, Texas 77517

Owner / MANAGING MEMBER  
Title

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

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