

**Executive Summary – Enforcement Matter – Case No. 59518**

**Emilio Chavez Cano**

**RN102078649**

**Docket No. 2020-0897-AGR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AGR

**Small Business:**

Yes

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

Outlier Dairy, 215 Private Road 3921, Miles, Runnels County

**Type of Operation:**

Dairy farm

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 8, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,125

**Amount Deferred for Expedited Settlement:** \$1,825

**Total Paid to General Revenue:** \$7,300

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**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:** June 8, 2020

**Date(s) of NOE(s):** June 12, 2020

**Executive Summary – Enforcement Matter – Case No. 59518**  
**Emilio Chavez Cano**  
**RN102078649**  
**Docket No. 2020-0897-AGR-E**

***Violation Information***

1. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state. Specifically, wastewater was discharging from the pens south of feed lot D.A. No. 1 due to the inadequate berms of the channel leading into retention control structure (“RCS”) No. 3. Additionally, wastewater was discharging into an unnamed tributary of Willow Creek from the northeast corner of feed lot D.A. No. 1 due to the inadequate berms of the channel leading into RCS No. 1 [30 TEX. ADMIN. CODE §§ 305.125(1) and (4) and 321.31(a), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXG921548, Part III, A.5(a)(2)].
2. Failed to ensure that the required retention capacity is available to contain rainfall and rainfall runoff from the design rainfall event. Specifically, RCS No. 1 was observed to be full [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.39(b)(2) and TPDES General Permit No. TXG921548, Part III, A.10(a)].
3. Failed to ensure that adequate equipment is available and maintained in good working order to remove such manure, sludge, and wastewater from the RCS as required to maintain the required volume. Specifically, the irrigation equipment on land management unit (“LMU”) No. 1 was incapable of properly dewatering the RCSs [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.47(e)(4) and TPDES General Permit No. TXG921548, Part III, A.6(e)].
4. Failed to remove sludge from the RCS in accordance with the design schedule for cleanout to prevent the accumulation of sludge from encroaching on the volumes reserved for minimum treatment. Specifically, RCS No. 2 appeared to be inundated with sludge and cleanouts of RCS Nos. 1 and 2 had not been performed in accordance with the Facility’s cleanout intervals [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.39(c)(1) and TPDES General Permit No. TXG921548, Part III, A.10(e)].
5. Failed to maintain a minimum buffer zone of 150 feet between a control facility of an animal feeding operation and a water well used for private water supply. Specifically, manure was being stored within the 150-foot buffer zone for Well No. 145 located west of feed lot D.A. No. 1 [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.38(b)(2) and TPDES General Permit No. TXG921548, Part III, A.4(c)(1)(ii)].
6. Failed to conduct monthly inspections on mortality management systems, including containers, burial sites, composting facilities, incinerators, and chemical storage and disposal areas. Specifically, the Facility’s pollution prevention plan did not contain adequate monthly inspections for the composting facility located west of feed lot D.A. No. 1 [30 TEX. ADMIN. CODE §§ 305.125(1) and 321.46(c)(3) and TPDES General Permit No. TXG921548, Part III, A.15(a)(4)(i)].

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***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

a. By June 17, 2020:

- i. Repaired the berms of the channels leading into RCS Nos. 1 and 3 to ensure that unauthorized discharges will not occur;
- ii. Completed the installation of the irrigation system on LMU No. 1;
- iii. Utilized the irrigation system on LMU No. 1 to dewater RCS No. 1 to provide a minimum of two vertical feet of freeboard between the top of the embankment and the required storage capacity required to contain the runoff and direct precipitation from a 25-year, 24-hour rainfall event; and
- iv. Ensured that the mortality management systems are inspected on a monthly basis.

b. By August 3, 2020, removed the manure west of feed lot D.A. No. 1 and restored the minimum buffer zone of 150 feet for Well No. 145.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, remove and properly dispose of sludge from RCS Nos. 1 and 2 to meet the total required capacities;
- b. Within 45 days, submit written certification of compliance with a.;
- c. Within 60 days, conduct an evaluation of the Facility by a Texas Licensed Professional Engineer to certify the structure of the liner for RCS Nos. 1 and 2; and
- d. Within 75 days, submit written certification of compliance with c.

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***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Alejandro Laje, Enforcement Division,  
Enforcement Team 1, MC-219, (512) 239-2547; Michael Parrish, Enforcement Division,  
MC 219, (512) 239-2548

**Respondent:** Emilio Chavez Cano, Operator, 215 Private Road 3921, Miles, Texas  
76861

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	15-Jun-2020	<b>Screening</b>	26-Jun-2020	<b>EPA Due</b>	
	<b>PCW</b>	11-May-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Emilio Chavez Cano
<b>Reg. Ent. Ref. No.</b>	RN102078649
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59518	<b>No. of Violations</b>	6
<b>Docket No.</b>	2020-0897-AGR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Caleb Olson
		<b>EC's Team</b>	Enforcement Team 1
<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>	\$10,000
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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>	0.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for Compliance History.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$875
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$10,840
Estimated Cost of Compliance	\$118,250

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,125
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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.

Notes:

<b>Final Penalty Amount</b>	\$9,125
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,125
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,825
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$7,300
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**Screening Date** 26-Jun-2020

**Docket No.** 2020-0897-AGR-E

**PCW**

**Respondent** Emilio Chavez Cano

*Policy Revision 4 (April 2014)*

**Case ID No.** 59518

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN102078649

**Media** Water Quality

**Enf. Coordinator** Caleb Olson

### 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)**

Satisfactory Performer

**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** 26-Jun-2020 **Docket No.** 2020-0897-AGR-E **PCW**  
**Respondent** Emilio Chavez Cano *Policy Revision 4 (April 2014)*  
**Case ID No.** 59518 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Enf. Coordinator** Caleb Olson

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and (4) and 321.31(a), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG921548, Part III, A.5(a)(2)  
**Violation Description** Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state. Specifically, wastewater was discharging from the pens south of feed lot D.A. No. 1 due to the inadequate berms of the channel leading into retention control structure ("RCS") No. 3. Additionally, wastewater was discharging into an unnamed tributary of Willow Creek from the northeast corner of feed lot D.A. No. 1 due to the inadequate berms of the channel leading into RCS No. 1.  
**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		15.0%
	Potential				

  

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

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** \$21,250

**Violation Subtotal** \$3,750

**Violation Events**

Number of Violation Events: 1      Number of violation days: 9

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

One monthly event is recommended from the record review date (June 8, 2020) to the date of compliance (June 17, 2020).

**Good Faith Efforts to Comply** 10.0% Reduction \$375

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

Notes: The Respondent achieved compliance by June 17, 2020.

**Violation Subtotal** \$3,375

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**  
 Estimated EB Amount \$81      Violation Final Penalty Total \$3,375  
**This violation Final Assessed Penalty (adjusted for limits)** \$3,375

# Economic Benefit Worksheet

**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**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				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)	\$5,000	20-Feb-2020	17-Jun-2020	0.32	\$81	n/a	\$81

**Notes for DELAYED costs**

Estimated cost to repair the berms of the channels leading into RCS Nos. 1 and 3 to ensure that unauthorized discharges will not occur. Date required is the date the violation was initially documented. 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**

\$5,000

**TOTAL**

\$81

**Screening Date** 26-Jun-2020  
**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Enf. Coordinator** Caleb Olson

**Docket No.** 2020-0897-AGR-E

**PCW**

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

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and 321.39(b)(2) and TPDES General Permit No. TXG921548, Part III, A.10(a)

**Violation Description** Failed to ensure that the required retention capacity is available to contain rainfall and rainfall runoff from the design rainfall event. Specifically, RCS No. 1 was observed to be full.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	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 that 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 1      9 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the record review date (June 8, 2020) to the date of compliance (June 17, 2020).

**Good Faith Efforts to Comply**

10.0%

Reduction \$125

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		

**Notes** The Respondent achieved compliance by June 17, 2020.

**Violation Subtotal** \$1,125

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$84

**Violation Final Penalty Total** \$1,125

**This violation Final Assessed Penalty (adjusted for limits)** \$1,125

# Economic Benefit Worksheet

**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**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	\$3,000	20-Feb-2020	17-Jun-2020	0.32	\$3	\$65	\$68
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)	\$1,000	20-Feb-2020	17-Jun-2020	0.32	\$16	n/a	\$16

**Notes for DELAYED costs**

Engineering/Construction cost is the estimated cost to complete the installation of the irrigation system on land management unit ("LMU") No. 1. Date required is the date the violation was initially documented. Final date is the date of compliance.

Other cost is the estimated cost to utilize the irrigation system on LMU No. 1 to dewater RCS No. 1 to provide a minimum of two vertical feet of freeboard between the top of the embankment and the required storage capacity required to contain the runoff and direct precipitation from a 25-year, 24-hour rainfall event. Date required is the date the violation was initially documented. 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 \$4,000

**TOTAL** \$84

**Screening Date** 26-Jun-2020  
**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Enf. Coordinator** Caleb Olson

**Docket No.** 2020-0897-AGR-E

**PCW**

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

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and 321.47(e)(4) and TPDES General Permit No. TXG921548, Part III, A.6(e)

**Violation Description** Failed to ensure that adequate equipment is available and maintained in good working order to remove such manure, sludge, and wastewater from the RCS as required to maintain the required volume. Specifically, the irrigation equipment on LMU No. 1 was incapable of properly dewatering the RCSs.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	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 that 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 1 9 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the record review date (June 8, 2020) to the date of compliance (June 17, 2020).

**Good Faith Efforts to Comply**

10.0%

Reduction \$125

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		

**Notes** The Respondent achieved compliance by June 17, 2020.

**Violation Subtotal** \$1,125

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$1,125

**This violation Final Assessed Penalty (adjusted for limits)** \$1,125

# Economic Benefit Worksheet

**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Violation No.** 3

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

Delayed cost of compliance captured in Economic Benefit No. 2.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

**Screening Date** 26-Jun-2020  
**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Enf. Coordinator** Caleb Olson

**Docket No.** 2020-0897-AGR-E

**PCW**

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

**Violation Number** 4

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and 321.39(c)(1) and TPDES General Permit No. TXG921548, Part III, A.10(e)

**Violation Description** Failed to remove sludge from the RCS in accordance with the design schedule for cleanout to prevent the accumulation of sludge from encroaching on the volumes reserved for minimum treatment. Specifically, RCS No. 2 appeared to be inundated with sludge and cleanouts of RCS Nos. 1 and 2 had not been performed in accordance with the Facility's cleanout intervals.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	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 that 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 1 18 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the record review date (June 8, 2020) to the screening date (June 26, 2020).

**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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$10,512

**Violation Final Penalty Total** \$1,250

**This violation Final Assessed Penalty (adjusted for limits)** \$1,250

# Economic Benefit Worksheet

**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Violation No.** 4

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	\$4,000	20-Feb-2020	16-Mar-2022	2.07	\$28	\$552	\$580
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	\$100,000	20-Feb-2020	14-Feb-2022	1.99	\$9,932	n/a	\$9,932
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Engineering/Construction cost is the estimated cost to conduct an evaluation of the Facility by a Texas Licensed Professional Engineer to certify the structure of the liner for RCS Nos. 1 and 2. Date required is the date the violation was initially documented. Final date is the anticipated date of compliance.

Remediation/Disposal cost is the estimated cost to remove and properly dispose of sludge from RCS Nos. 1 and 2 to meet the total required capacities. Date required is the date the violation was initially documented. Final date is the anticipated 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 \$104,000

**TOTAL** \$10,512

**Screening Date** 26-Jun-2020  
**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Enf. Coordinator** Caleb Olson

**Docket No.** 2020-0897-AGR-E

**PCW**

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

**Violation Number** 5

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and 321.38(b)(2) and TPDES General Permit No. TXG921548, Part III, A.4(c)(1)(ii)

**Violation Description** Failed to maintain a minimum buffer zone of 150 feet between a control facility of an animal feeding operation and a water well used for private water supply. Specifically, manure was being stored within the 150-foot buffer zone for Well No. 145 located west of feed lot D.A. No. 1.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	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 that 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 1 18 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the record review date (June 8, 2020) to the screening date (June 26, 2020).

**Good Faith Efforts to Comply**

10.0%

Reduction \$125

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		

**Notes** The Respondent achieved compliance by August 3, 2020.

**Violation Subtotal** \$1,125

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$159

**Violation Final Penalty Total** \$1,125

**This violation Final Assessed Penalty (adjusted for limits)** \$1,125

# Economic Benefit Worksheet

**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Violation No.** 5

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	\$5,000	20-Feb-2020	3-Aug-2020	0.45	\$8	\$151	\$159
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** Engineering/Construction cost is the estimated cost to remove the manure west of feed lot D.A. No. 1 and restore the minimum buffer zone of 150 feet for Well No. 145. Date required is the date the violation was initially documented. 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 \$5,000

**TOTAL** \$159

**Screening Date** 26-Jun-2020  
**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Enf. Coordinator** Caleb Olson

**Docket No.** 2020-0897-AGR-E

**PCW**

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

**Violation Number** 6

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and 321.46(c)(3) and TPDES General Permit No. TXG921548, Part III, A.15(a)(4)(i)

**Violation Description** Failed to conduct monthly inspections on mortality management systems, including containers, burial sites, composting facilities, incinerators, and chemical storage and disposal areas. Specifically, the Facility's pollution prevention plan did not contain adequate monthly inspections for the composting facility located west of feed lot D.A. No. 1.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	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 that 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 1 9 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the record review date (June 8, 2020) to the date of compliance (June 17, 2020).

**Good Faith Efforts to Comply**

10.0%

Reduction \$125

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

**Notes** The Respondent achieved compliance by June 17, 2020.

**Violation Subtotal** \$1,125

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$4

**Violation Final Penalty Total** \$1,125

**This violation Final Assessed Penalty (adjusted for limits)** \$1,125

## Economic Benefit Worksheet

**Respondent** Emilio Chavez Cano  
**Case ID No.** 59518  
**Reg. Ent. Reference No.** RN102078649  
**Media** Water Quality  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	\$250	20-Feb-2020	17-Jun-2020	0.32	\$4	n/a	\$4
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**

Record Keeping System cost is the estimated cost ensure that the Facility's mortality management systems are inspected on a monthly basis. Date required is the date the violation was initially documented. 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** \$250

**TOTAL** \$4

The TCEQ is committed to accessibility.

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# Compliance History Report

Compliance History Report for CN604351155, RN102078649, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN604351155, Cano, Emilio Chavez      **Classification:** SATISFACTORY      **Rating:** 10.00

**Regulated Entity:** RN102078649, Outlier Dairy      **Classification:** SATISFACTORY      **Rating:** 10.00

**Complexity Points:** 5      **Repeat Violator:** NO

**CH Group:** 12 - Agriculture, Forestry, Fishing, and Hunting

**Location:** 215 Private Road 3921, Miles, Runnels County, Texas

**TCEQ Region:** REGION 03 - ABILENE

**ID Number(s):**

**WASTEWATER AGRICULTURE** EPA ID TX0130991

**WASTEWATER AGRICULTURE** PERMIT TXG921548

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

**Date Compliance History Report Prepared:** May 06, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 06, 2016 to May 06, 2021

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

**Name:** Caleb Olson

**Phone:** (817) 588-5856

**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 3      August 03, 2020      (1665004)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

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

N/A

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

N/A

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

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
EMILIO CHAVEZ CANO  
RN102078649**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2020-0897-AGR-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 Emilio Chavez Cano (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates a dairy farm located at 215 Private Road 3921 in Miles, Runnels County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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. WATER CODE ch. 26 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 \$9,125 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,300 of the penalty and \$1,825 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
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 Facility:
  - a. By June 17, 2020:
    - i. Repaired the berms of the channels leading into retention control structure ("RCS") Nos. 1 and 3 to ensure that unauthorized discharges will not occur;
    - ii. Completed the installation of the irrigation system on land management unit ("LMU") No. 1;
    - iii. Utilized the irrigation system on LMU No. 1 to dewater RCS No. 1 to provide a minimum of two vertical feet of freeboard between the top of the embankment and the required storage capacity required to contain the runoff and direct precipitation from a 25-year, 24-hour rainfall event; and
    - iv. Ensured that the Facility's mortality management systems are inspected on a monthly basis.
  - b. By August 3, 2020, the Respondent removed the manure west of feed lot D.A. No. 1 and restored the minimum buffer zone of 150 feet for Well No. 145.

## **II. ALLEGATIONS**

During a record review conducted on June 8, 2020, an investigator documented that the Respondent:

1. Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (4) and 321.31(a), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG921548, Part III, A.5(a)(2). Specifically, wastewater was discharging from the pens south of feed lot D.A. No. 1 due to the inadequate berms of the channel leading into RCS No. 3. Additionally, wastewater was discharging into an unnamed tributary of Willow Creek from the northeast corner of feed lot D.A. No. 1 due to the inadequate berms of the channel leading into RCS No. 1.

2. Failed to ensure that the required retention capacity is available to contain rainfall and rainfall runoff from the design rainfall event, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.39(b)(2) and TPDES General Permit No. TXG921548, Part III, A.10(a). Specifically, RCS No. 1 was observed to be full.
3. Failed to ensure that adequate equipment is available and maintained in good working order to remove such manure, sludge, and wastewater from the RCS as required to maintain the required volume, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.47(e)(4) and TPDES General Permit No. TXG921548, Part III, A.6(e). Specifically, the irrigation equipment on LMU No. 1 was incapable of properly dewatering the RCSs.
4. Failed to remove sludge from the RCS in accordance with the design schedule for cleanout to prevent the accumulation of sludge from encroaching on the volumes reserved for minimum treatment, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.39(c)(1) and TPDES General Permit No. TXG921548, Part III, A.10(e). Specifically, RCS No. 2 appeared to be inundated with sludge and cleanouts of RCS Nos. 1 and 2 had not been performed in accordance with the Facility's cleanout intervals.
5. Failed to maintain a minimum buffer zone of 150 feet between a control facility of an animal feeding operation and a water well used for private water supply, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.38(b)(2) and TPDES General Permit No. TXG921548, Part III, A.4(c)(1)(ii). Specifically, manure was being stored within the 150-foot buffer zone for Well No. 145 located west of feed lot D.A. No. 1.
6. Failed to conduct monthly inspections on mortality management systems, including containers, burial sites, composting facilities, incinerators, and chemical storage and disposal areas, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 321.46(c)(3) and TPDES General Permit No. TXG921548, Part III, A.15(a)(4)(i). Specifically, the Facility's pollution prevention plan did not contain adequate monthly inspections for the composting facility located west of feed lot D.A. No. 1.

### **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: Emilio Chavez Cano, Docket No. 2020-0897-AGR-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 undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, remove and properly dispose of sludge from RCS Nos. 1 and 2 to meet the total required capacities.
  - b. Within 45 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.e.
  - c. Within 60 days after the effective date of this Order, conduct an evaluation of the Facility by a Texas Licensed Professional Engineer to certify the structure of the liner for RCS Nos. 1 and 2.
  - d. Within 75 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 2.c., in accordance with Ordering Provision No. 2.e.
  - e. The written certification of compliance required by Ordering Provision Nos. 2.b and 2.d shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the 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 that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

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 Facility 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
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

\_\_\_\_\_  
7/19/2022

\_\_\_\_\_  
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

\_\_\_\_\_  
Date

*Emilio Chavez Cano*  
\_\_\_\_\_  
Name (Printed or typed)

*06/10/2022*  
\_\_\_\_\_  
Date

*Member*  
\_\_\_\_\_  
Title

Authorized Representative of  
Emilio Chavez Cano

*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.