

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59612
Bobby Kennedy and Lisa Kennedy
RN110651239
Docket No. 2020-0993-AGR-E

Order Type:
Default Order

Media:
AGR

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
8349 South Farm-to-Market 667, Frost, Navarro County (the "Site")

Type of Operation:
animal feeding operation

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: Complainant

Texas Register Publication Date: February 11, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,312

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,312

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

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): March 13, 2020
Complaint Information: Animal manure stacked near property line causes a strong odor and runoff onto neighboring properties when it rains.

Date(s) of Investigation: May 8, 2020

Date(s) of NOV(s): September 17, 2019

Date(s) of NOE(s): July 15, 2020

Bobby Kennedy and Lisa Kennedy

RN110651239

Docket No. 2020-0993-AGR-E

Violation Information

Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 321.31(a)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Within 30 days, update operational procedures to prevent future discharges at the Site.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.

Litigation Information**Date Petition(s) Filed:**

July 2, 2021; August 25, 2021

Date Green Card(s) Signed:

unclaimed; unclaimed

Date Answer(s) Filed:

N/A

Contact Information**TCEQ Attorneys:** Jim Sallans, 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:** Stephanie Frederick, Enforcement, (512) 239-1001**TCEQ Regional Contact:** Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5853**Respondent Contact:** Bobby and Lisa Kennedy, 8349 South Farm-to-Market 667, Frost, TX 76641**Respondent's Attorney:** N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	20-Jul-2020	Screening	29-Jul-2020	EPA Due	
	PCW	5-Aug-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Bobby Kennedy and Lisa Kennedy
Reg. Ent. Ref. No.	RN110651239
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	59612	Order Type	1660
Docket No.	2020-0993-AGR-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Stephanie Frederick
Multi-Media		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	\$1,250
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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	\$62
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Notes: Enhancement for one NOV with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do 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: \$85
 Estimated Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,312
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,312
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,312
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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	\$1,312
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Screening Date 29-Jul-2020

Docket No. 2020-0993-AGR-E

PCW

Respondent Bobby Kennedy and Lisa Kennedy

Policy Revision 4 (April 2014)

Case ID No. 59612

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110651239

Media Water Quality

Enf. Coordinator Stephanie Frederick

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)

Unclassified

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-Jul-2020
Respondent Bobby Kennedy and Lisa Kennedy
Case ID No. 59612
Reg. Ent. Reference No. RN110651239
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-0993-AGR-E

PCW

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

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 321.31(a) and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state. Specifically, the Respondents applied manure along the property line leading to a discharge of agricultural waste onto the adjacent property.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended, calculated from the May 8, 2020 investigation date to the July 29, 2020 screening date.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Bobby Kennedy and Lisa Kennedy
Case ID No. 59612
Reg. Ent. Reference No. RN110651239
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)	\$1,500	8-May-2020	24-Jun-2021	1.13	\$85	n/a	\$85

Notes for DELAYED costs
 Estimated Other cost to update operational procedures to prevent future unauthorized discharges. Date Required is the date of the investigation. 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 \$1,500

TOTAL \$85

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 CN605617372, RN110651239, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605617372, KENNEDY, BOBBY **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN110651239, BOBBY & LISA KENNEDY PROPERTY **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 8349 SOUTH FARM-TO-MARKET ROAD 667, IN FROST, NAVARRO COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
AIR QUALITY NON PERMITTED ID NUMBER
R04110651239

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

Date Compliance History Report Prepared: July 21, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 21, 2015 to July 21, 2020

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Stephanie Frederick **Phone:** (512) 239-1001

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.):

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: 09/17/2019 (1592852)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 321, SubChapter B 321.31(a)
Description: Failure to prevent the unauthorized discharge of wastewater.

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 7/21/2015 and 7/21/2020

1	Date: 09/17/2019 (1592852)	Classification: Moderate
	Self Report? NO	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 321, SubChapter B 321.31(a)	
	Description: Failure to prevent the unauthorized discharge of wastewater.	

For Informational Purposes Only

* NOVs applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period July 21, 2015 and July 21, 2020

	(1633201)
Item 1	March 04, 2020

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

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Compliance History Report

Compliance History Report for CN605617380, RN110651239, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605617380, KENNEDY, LISA **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN110651239, BOBBY & LISA KENNEDY PROPERTY **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 8349 SOUTH FARM-TO-MARKET ROAD 667, IN FROST, NAVARRO COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
AIR QUALITY NON PERMITTED ID NUMBER
 R04110651239

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

Date Compliance History Report Prepared: July 21, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 21, 2015 to July 21, 2020

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Stephanie Frederick **Phone:** (512) 239-1001

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.):

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: 09/17/2019 (1592852)
- Self Report? NO Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 321, SubChapter B 321.31(a)
- Description: Failure to prevent the unauthorized discharge of wastewater.

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 7/21/2015 and 7/21/2020

1	Date: 09/17/2019 (1592852)	Classification: Moderate
	Self Report? NO	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 321, SubChapter B 321.31(a)	
	Description: Failure to prevent the unauthorized discharge of wastewater.	

For Informational Purposes Only

* NOVs applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period July 21, 2015 and July 21, 2020

	(1633201)
Item 1	March 04, 2020

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BOBBY KENNEDY AND LISA
KENNEDY;
RN110651239**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2020-0993-AGR-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. 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 respondents. The respondents made the subject of this Order are Bobby Kennedy and Lisa Kennedy (“Respondents”).

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

FINDINGS OF FACT

1. Respondents own and operate an animal feeding operation located at 8349 South Farm-to-Market Road 667, in Frost, Navarro County, Texas (the “Site”). The Site is near or adjacent to water in the state as defined in Tex. Water Code § 26.001(5).
2. During an investigation conducted on May 8, 2020, an investigator documented that Respondents failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state. Specifically, Respondents applied manure along the property line leading to a discharge of agricultural waste onto the adjacent property.
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 Bobby Kennedy and Lisa Kennedy” (the “EDPRP”) in the TCEQ Chief Clerk’s office on July 2, 2021.
4. The EDPRP was mailed to Respondents’ last known address on July 2, 2021 via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.”
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk’s office on August 25, 2021.
6. By letter dated August 25, 2021, sent to Respondents’ last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.” The First-Class mail has not been returned, indicating that Respondents received notice of the EDPRP.
7. More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are 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, Respondents failed to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 321.31(a).
3. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, Respondents 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 Respondents 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 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.
6. An administrative penalty in the amount of one thousand three hundred twelve dollars (\$1,312.00) 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. Respondents are assessed an administrative penalty in the amount of one thousand three hundred twelve dollars (\$1,312.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondents' compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Bobby Kennedy and Lisa Kennedy; Docket No. 2020-0993-AGR-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. Respondents shall undertake the following technical requirements:
 - a. Within 30 days of the effective date of this Order, update operational procedures to prevent future discharges at the Site.
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a. 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 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 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-8951

4. All relief not expressly granted in this Order is denied.
5. The provisions of 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.
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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents 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 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondents if the Executive Director determines that Respondents have 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF JIM SALLANS

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bobby Kennedy and Lisa Kennedy" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 2, 2021.

The EDPRP was mailed to each Respondent's last known address on July 2, 2021, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on August 25, 2021.

The EDPRP was mailed to each Respondent's last known address on August 25, 2021, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that each Respondent received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since each Respondent received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing."

"My name is Jim Sallans and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 20th day of January, 2022

A handwritten signature in cursive script that reads "Jim Sallans".

Declarant