

Executive Summary – Enforcement Matter – Case No. 59916
Texas TransEastern, Inc.
RN107503336
Docket No. 2020-1281-WQ-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Texas TransEastern, 2602 Hardrock Road Grand Prairie, Whitewright, Grayson County

Type of Operation:

Petroleum product transportation company

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 13, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,500

Total Paid to General Revenue: \$11,250

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$11,250

Name of SEP: Galveston Bay Foundation (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

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: September 3, 2020

Date(s) of NOE(s): August 5, 2020

Executive Summary – Enforcement Matter – Case No. 59916
Texas TransEastern, Inc.
RN107503336
Docket No. 2020-1281-WQ-E

Violation Information

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

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By June 18, 2020, the impact to Lindsey Creek was mitigated based on water quality analysis after the Respondent removed and properly disposed of debris and dead fish, placed booms in the creek to contain the fuel, brought in vacuum trucks to recover the contained fuel from the creek, repaired the tanker truck in order to recover 2,200 gallons of fuel from the trailer and remove it from the site, applied wash water and surfactant to the road to recover the solidified spill, and excavated approximately 255 cubic yards of soil containing fuel that could run off into the creek.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alyssa Loveday, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-5504; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Galveston Bay Foundation, 1725 Highway 146, Kemah, Texas 77565

Respondent: Steve Davis, Director of Safety, Texas TransEastern, Inc., P.O. Box 5339, Pasadena, Texas 77508-5339

J.J. Isbell, President, Texas TransEastern, Inc., P.O. Box 5339, Pasadena, Texas 77508-5339

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 14-Sep-2020 | Screening | 14-Sep-2020 | EPA Due | |
| | PCW | 18-Mar-2021 | | | | |

| | |
|--|--------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Texas TransEastern, Inc. |
| Reg. Ent. Ref. No. | RN107503336 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor |

| | | | |
|--|----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 59916 | No. of Violations | 1 |
| Docket No. | 2020-1281-WQ-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Alyssa Loveday |
| | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$30,000 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|-----------------|--------------------------------|-----|
| Compliance History | 0.0% Adjustment | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|-----------------|--------------------------------|-----|

Notes: No adjustment for Compliance History.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|----------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | -\$7,500 |
|--|-------------------|----------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$451
 Estimated Cost of Compliance: \$149,702
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$22,500 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$22,500 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$22,500 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$22,500 |
|------------------------|----------|

Screening Date 14-Sep-2020

Docket No. 2020-1281-WQ-E

PCW

Respondent Texas TransEastern, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59916

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107503336

Media Water Quality

Enf. Coordinator Alyssa Loveday

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)

N/A

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 14-Sep-2020

Docket No. 2020-1281-WQ-E

PCW

Respondent Texas TransEastern, Inc.

Policy Revision 4 (April 2014)

Case ID No. 59916

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107503336

Media Water Quality

Enf. Coordinator Alyssa Loveday

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent an unauthorized discharge of industrial waste into or adjacent to any water in the state. Specifically, on May 27, 2020, approximately 6,300 gallons of gasoline were released from a Texas TransEastern, Inc. tanker truck following a single vehicle accident at the intersection of United States Highway 69 and Texas Highway 11 near Whitewright, Grayson County, Texas. The spilled gasoline traveled northwest along a drainage ditch and entered Lindsey Creek on the south side of United States Highway 69, resulting in the death of several soft-shelled turtles, hundreds of small fish, a beaver, and two snakes.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (30.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 4 Number of violation days 22

Table with frequency options: daily, weekly (x), monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$30,000

Four weekly events are recommended from the May 27, 2020 unauthorized discharge date to the June 18, 2020 compliance date.

Good Faith Efforts to Comply

25.0% Reduction \$7,500

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Table with categories: Extraordinary, Ordinary (x), N/A.

Notes The Respondent achieved compliance by June 18, 2020, prior to the Notice of Enforcement dated August 5, 2020.

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$451

Violation Final Penalty Total \$22,500

This violation Final Assessed Penalty (adjusted for limits) \$22,500

Economic Benefit Worksheet

Respondent Texas TransEastern, Inc.
Case ID No. 59916
Reg. Ent. Reference No. RN107503336
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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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 | \$149,702 | 27-May-2020 | 18-Jun-2020 | 0.06 | \$451 | n/a | \$451 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Actual costs to remove and properly dispose of debris and dead fish, place booms in the creek to contain the fuel, bring in vacuum trucks to recover the contained fuel from the creek, repair the tanker truck in order to recover 2,200 gallons of fuel from the trailer and remove it from the site, apply wash water and surfactant to the road to recover the solidified spill, and excavate approximately 255 cubic yards of soil containing fuel that could run off into the creek. The Date required is the date of the unauthorized discharge and the Final date is the date of compliance based on water quality analysis.

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

\$149,702

TOTAL

\$451

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 CN600600621, RN107503336, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600600621, Texas Transeastern, Inc. **Classification:** SATISFACTORY **Rating:** 17.50

Regulated Entity: RN107503336, TEXAS TRANSEASTERN **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 2602 Hardrock Road in Grand Prairie, Dallas County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WATER QUALITY NON PERMITTED ID NUMBER
R04111066882

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

Date Compliance History Report Prepared: March 18, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 18, 2016 to March 18, 2021

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

Name: Alyssa Loveday

Phone: (512) 239-5504

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 October 05, 2020 (1663459)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOV's Issued During Component Period 3/18/2016 and 3/18/2021

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period March 18, 2016 and March 18, 2021

(1659955)

Item 1

August 03, 2020**

For Informational Purposes Only

(1663459)

Item 2*

October 05, 2020

For Informational Purposes Only

* No violations documented during this investigation

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS TRANSEASTERN, INC.
RN107503336**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2020-1281-WQ-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas TransEastern, Inc. (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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

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 the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a petroleum product transportation company located at 2602 Hardrock Road in Grand Prairie, Dallas County, Texas (the "Business"). The Business transports or transported other substances, as defined in TEX. WATER CODE § 26.039(a)(3), on roads near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on September 3, 2020, an investigator documented that on May 27, 2020, approximately 6,300 gallons of gasoline were released from a Texas TransEastern, Inc. tanker truck following a single vehicle accident at the intersection of United States Highway 69 and Texas Highway 11 near Whitewright, Grayson County, Texas. The spilled gasoline traveled northwest along a drainage ditch and entered Lindsey Creek on the south side of United States Highway 69, resulting in the death of several soft-shelled turtles, hundreds of small fish, a beaver, and two snakes.
3. The Executive Director recognizes that by June 18, 2020, the impact to Lindsey Creek was mitigated based on water quality analysis after the Respondent removed and

properly disposed of debris and dead fish, placed booms in the creek to contain the fuel, brought in vacuum trucks to recover the contained fuel from the creek, repaired the tanker truck in order to recover 2,200 gallons of fuel from the trailer and remove it from the site, applied wash water and surfactant to the road to recover the solidified spill, and excavated approximately 255 cubic yards of soil containing fuel that could run off into the creek.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to prevent the unauthorized discharge of industrial waste into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$22,500 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, \$11,250 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A" – incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a 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 the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas TransEastern, Inc., Docket No. 2020-1281-WQ-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 implement and complete an SEP as set forth in Conclusion of Law No. 4. The amount of \$11,250 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date of the Executive Director demands payment.
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 Business 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.
7. 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 in this Order.
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, 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.

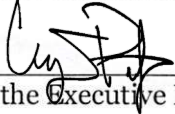
10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic 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.
11. 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

12/30/2021

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

11/8/21
Date

J.J. ISBELL
Name (Printed or typed)
Authorized Representative of
Texas TransEastern, Inc.

PRESIDENT
Title

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

Attachment A
Docket Number: 2020-1281-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|-----------------------------------|---|
| Respondent: | Texas TransEastern, Inc. |
| Payable Penalty Amount: | \$22,500 |
| SEP Offset Amount: | \$11,250 |
| Type of SEP: | Contribution to a Third-Party Pre-Approved SEP |
| Third-Party Administrator: | Galveston Bay Foundation |
| Project Name: | <i>Galveston Bay “Marsh Mania” Restoration Program</i> |
| Location of SEP: | Harris, Galveston, Chambers, and Brazoria Counties |

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Galveston Bay Foundation** for the *Galveston Bay “Marsh Mania” Restoration Program*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to re-establish marsh habitat to Galveston Bay by restoring marsh elevations to those that will support marsh vegetation and protect marsh habitats from the threat of erosion. The Third-Party Administrator shall also plant salinity-appropriate marsh grasses to reestablish the habitat. The SEP Offset Amount will be used for on-the-ground site preparation and construction of marsh restoration sites, including supplies, materials, equipment, and contractual labor costs, excluding compensation of Galveston Bay Foundation personnel or volunteers.

Restoration work will take place in and around Galveston Bay, its sub-bays, and its tributaries throughout Harris, Galveston, Chambers, and Brazoria Counties. The specific locations will be determined based on local prioritization and needs. The Third-Party Administrator, at its own expense, shall work with local steering committees comprised of leaders from government agencies and local organizations to identify and prioritize sites. The SEP will be performed in accordance with all

federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Due to the loss of wetlands in the Galveston Bay system, the Galveston Bay National Estuary Program identified wetland restoration, creation, and protection as the number one priority in the *Galveston Bay Plan*. Marshes along coastal Texas, including Galveston Bay, serve as nursery grounds for over 95% of the recreational and commercial fish species found in the Gulf of Mexico as well as many varieties of shrimps and crabs. These habitats also provide breeding, nesting, and feeding grounds for more than one-third of all threatened and endangered animal species, support many endangered plant species, and provide permanent and seasonal habitat for a great variety of wildlife, including finfish and shellfish and 75% of North America's bird species. Marshes also result in the reduction of pollution by filtering particulates and excess nutrients from runoff and serve to protect shorelines from erosion and help reduce the effects of flooding and storm surges on more upland areas.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Galveston Bay Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Robert Stokes, President
Galveston Bay Foundation
1725 Highway 146
Kemah, Texas 77565

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.