

**Executive Summary – Enforcement Matter – Case No. 54502**  
**North IH35 Investments Incorporated**  
**RN101228252**  
**Docket No. 2021-0468-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Indifference to legal duty based on violation of a previous order.

**Media:**

PWS

**Small Business:**

Yes

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

Ricks Cabaret of Austin, 3105 South IH-35, Round Rock, Travis County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 19, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$550

**Total Paid to General Revenue:** \$550

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** February 24, 2021

**Date(s) of NOE(s):** March 22, 2021

**Executive Summary – Enforcement Matter – Case No. 54502**  
**North IH35 Investments Incorporated**  
**RN101228252**  
**Docket No. 2021-0468-PWS-E**

***Violation Information***

Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples for the January 1, 2016 through December 31, 2016 monitoring period [TCEQ Agreed Order Docket No. 2017-0755-PWS-E, Ordering Provision No. 2.a.ii].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On April 27, 2021, the Respondent issued public notification and submitted a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples for the January 1, 2016 through December 31, 2016 monitoring period.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Amanda Conner, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2521; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Eric S. Langan, President, North IH35 Investments Incorporated, 10737 Cutten Road, Houston, Texas 77066-5007

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	29-Mar-2021	<b>Screening</b>	6-Apr-2021	<b>EPA Due</b>	
	<b>PCW</b>	5-Apr-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	North IH35 Investments Incorporated
<b>Reg. Ent. Ref. No.</b>	RN101228252
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	54502	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0468-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Conner
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$500
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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>	20.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$100
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<b>Notes</b>	Enhancement for one agreed order containing a denial of liability.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$50
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$5	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$550
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$550
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$550
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$550
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**Screening Date** 6-Apr-2021

**Docket No.** 2021-0468-PWS-E

**PCW**

**Respondent** North IH35 Investments Incorporated

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 54502

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101228252

**Media** Public Water Supply

**Enf. Coordinator** Amanda Conner

### 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> )	1	20%
	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)** 20%

**>> Repeat Violator (Subtotal 3)**

N/A

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

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

N/A

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

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one agreed order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 20%

Screening Date 6-Apr-2021

Docket No. 2021-0468-PWS-E

PCW

Respondent North IH35 Investments Incorporated

Policy Revision 5 (January 28, 2021)

Case ID No. 54502

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101228252

Media Public Water Supply

Enf. Coordinator Amanda Conner

Violation Number 1

Rule Cite(s) TCEQ Agreed Order Docket No. 2017-0755-PWS-E, Ordering Provision No. 2.a.ii

Violation Description Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples for the January 1, 2016 through December 31, 2016 monitoring period.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			10.0%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1 1546 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$50

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

Extraordinary		
Ordinary		x
N/A		

Notes The Respondent returned to compliance on April 27, 2021.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$550

This violation Final Assessed Penalty (adjusted for limits) \$550

## Economic Benefit Worksheet

**Respondent** North IH35 Investments Incorporated  
**Case ID No.** 54502  
**Reg. Ent. Reference No.** RN101228252  
**Media** Public Water Supply  
**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	28-Nov-2017	27-Apr-2021	3.41	\$1	n/a	\$1

Notes for DELAYED costs

The other delayed cost includes the estimated amount to ensure that the delinquent public notifications is issued to persons served by the Facility and a copy of the public notification, accompanied with a signed Certificate of Delivery, is submitted to the Executive Director, calculated from the effective date of TCEQ Agreed Order Docket No. 2017-0755-PWS-E to 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

**TOTAL**

\$1

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 CN603817495, RN101228252, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN603817495, North IH35 Investments Incorporated  
**Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN101228252, Ricks Cabaret of Austin  
**Classification:** NOT APPLICABLE **Rating:** N/A

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

**CH Group:** 14 - Other

**Location:** 3105 South Interstate 35 in Round Rock, Travis County, Texas

**TCEQ Region:** REGION 11 - AUSTIN

## ID Number(s):

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION**  
2270121

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

**Date Compliance History Report Prepared:** June 18, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 18, 2016 to June 18, 2021

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

**Name:** Amanda Conner

**Phone:** (512) 239-2521

## 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:

- 1 Effective Date: 11/28/2017 ADMINORDER 2017-0755-PWS-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR RD MR YR2016 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the annual reduced monitoring period from 01/01/2016 to 12/31/2016 within the required timeline.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR RD MR YR2015 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the annual reduced monitoring period from 01/01/2015 to 12/31/2015 within the required timeline.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR RD MR 3Y2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the triennial reduced monitoring period from 01/01/2012 to 12/31/2014 within the required timeline.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: LCR RD MR PN YR2016 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a distribution lead and copper reduced monitoring and reporting violation for the

annual reduced monitoring period from 01/01/2016 to 12/31/2016.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

N/A

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

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

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





\* 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  
NORTH IH35 INVESTMENTS  
INCORPORATED  
RN101228252**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0468-PWS-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding North IH35 Investments Incorporated (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. 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 public water supply located at 3105 South Interstate 35 in Round Rock, Travis County, Texas (the "Facility"). The Facility provides water for human consumption, has one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review conducted on February 24, 2021, an investigator documented that the Respondent did not issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples for the January 1, 2016 through December 31, 2016 monitoring period.
3. The Executive Director recognizes that on April 27, 2021, the Respondent issued public notification and submitted a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples for the January 1, 2016 through December 31, 2016 monitoring period.

## 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. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples for the January 1, 2016 through December 31, 2016 monitoring period, in violation of TCEQ Agreed Order Docket No. 2017-0755-PWS-E, Ordering Provision No. 2.a.ii.
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), 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 \$550 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$550 penalty.

## 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: North IH35 Investments Incorporated, Docket No. 2021-0468-PWS-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. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon 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.

4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
5. 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.
6. 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.
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



\_\_\_\_\_  
5/18/2022

\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, 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

\_\_\_\_\_  
10-21-21  
Date

\_\_\_\_\_  
Eric Langan  
Name (Printed or typed)

\_\_\_\_\_  
President  
Title

\_\_\_\_\_  
Authorized Representative of  
North IH35 Investments Incorporated

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