

**Executive Summary – Enforcement Matter – Case No. 61264**  
**Plainview Bioenergy, LLC dba White Energy**  
**RN101983278**  
**Docket No. 2021-1153-PWS-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:**

PWS

**Small Business:**

Yes

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

White Energy, 2698 East U.S. Highway 70 near Plainview, Hale 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:** April 29, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$3,982

**Amount Deferred for Naturally Occurring Inorganic Contaminants:** \$3,000

**Total Paid to General Revenue:** \$982

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**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:** August 16, 2021 through August 27, 2021

**Date(s) of NOE(s):** August 27, 2021

**Executive Summary – Enforcement Matter – Case No. 61264**  
**Plainview Bioenergy, LLC dba White Energy**  
**RN101983278**  
**Docket No. 2021-1153-PWS-E**

***Violation Information***

1. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director (“ED”) [30 TEX. ADMIN. CODE § 290.117(c)(2)(B), (h), and (i)(1)].
2. Failed to comply with the acute maximum contaminant level (“MCL”) of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By September 22, 2021, the Respondent collected lead and copper tap samples at the required five sample sites, had the samples analyzed, and reported the results to the ED.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 180 days, submit an acceptable written plan, including a proposed schedule and any applicable planning materials, to the ED that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance within 1,095 days with the acute MCL for nitrate;
- b. Within 195 days, submit written certification to demonstrate compliance with a.;
- c. Within 365 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding action taken to provide water which meets the acute MCL for nitrate;
- d. Within 1,095 days, return to compliance with the acute MCL for nitrate; and
- e. Within 1,110 days, submit written certification to demonstrate compliance with d.

**Executive Summary – Enforcement Matter – Case No. 61264  
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RN101983278  
Docket No. 2021-1153-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Ecko Beggs, Enforcement Division, Enforcement Team 2, MC R-06, (915) 834-4968; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Brian Steenhard, Chief Executive Officer, Plainview Bioenergy, LLC, 2698 East U.S. Highway 70, Plainview, Texas 79072-0410

**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>	30-Aug-2021	<b>Screening</b>	1-Sep-2021	<b>EPA Due</b>	31-Dec-2021
	<b>PCW</b>	13-Sep-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Plainview Bioenergy, LLC dba White Energy
<b>Reg. Ent. Ref. No.</b>	RN101983278
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61264	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1153-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>	Ecko Beggs
		<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>	\$750
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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>	\$150
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Notes: Enhancement for two NOVs with the same/similar violations and one agreed order containing a denial of liability. Reduction for High Performer Classification.

<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>	-\$75
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$158
Estimated Cost of Compliance	\$250

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$825
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	19.0% Adjustment	\$157
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs of compliance associated to Violation No. 1.

<b>Final Penalty Amount</b>	\$982
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$982
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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.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$982
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**Screening Date** 1-Sep-2021

**Docket No.** 2021-1153-PWS-E

**PCW**

**Respondent** Plainview Bioenergy, LLC dba White Energy

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61264

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101983278

**Media** Public Water Supply

**Enf. Coordinator** Ecko Beggs

### 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> )	2	10%
	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)** 30%

#### >> Repeat Violator (Subtotal 3)

No

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

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for two NOVs with the same/similar violations and one agreed order containing a denial of liability. Reduction for High Performer Classification.

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

#### >> Final Compliance History Adjustment

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

Screening Date 1-Sep-2021

Docket No. 2021-1153-PWS-E

PCW

Respondent Plainview Bioenergy, LLC dba White Energy

Policy Revision 5 (January 28, 2021)

Case ID No. 61264

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101983278

Media Public Water Supply

Enf. Coordinator Ecko Beggs

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.117(c)(2)(B), (h), and (i)(1)

Violation Description

Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2020 through December 31, 2020 monitoring period.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper tap samples could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1

365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$75

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

Notes

The Respondent achieved compliance by September 22, 2021.

Violation Subtotal \$675

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$158

Violation Final Penalty Total \$982

This violation Final Assessed Penalty (adjusted for limits) \$982

# Economic Benefit Worksheet

**Respondent** Plainview Bioenergy, LLC dba White Energy  
**Case ID No.** 61264  
**Reg. Ent. Reference No.** RN101983278  
**Media Violation No.** Public Water Supply  
 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	\$100	16-Aug-2021	22-Sep-2021	0.10	\$1	n/a	\$1
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** The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future lead and copper tap samples are collected by the Facility's personnel, analyzed, and reported to the Executive Director, calculated from the record review date 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	\$150	30-Sep-2020	1-Sep-2021	0.92	\$7	\$150	\$157
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs** The avoided cost includes the estimated amount to collect and have analyzed the required lead and copper tap samples (\$30 per sample x five missed samples x one monitoring period), calculated from the sampling due date of the monitoring period to the screening date.

**Approx. Cost of Compliance** \$250

**TOTAL** \$158



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	30-Aug-2021			
	<b>PCW</b>	13-Sep-2021	<b>Screening</b>	1-Sep-2021	<b>EPA Due</b> 31-Dec-2021

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Plainview Bioenergy, LLC dba White Energy
<b>Reg. Ent. Ref. No.</b>	RN101983278
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61264	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1153-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>	Ecko Beggs
		<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>	\$2,500
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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>	\$500
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Notes: Enhancement for two NOVs with the same/similar violations and one agreed order containing a denial of liability. Reduction for High Performer Classification.

<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>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$9,543
Estimated Cost of Compliance	\$40,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,000
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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>	\$3,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,000
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<b>DEFERRAL</b>	100.0%	Reduction	<b>Adjustment</b>	-\$3,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

The Executive Director recommends a conditional deferral for naturally occurring constituents.

<b>PAYABLE PENALTY</b>	\$0
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**Screening Date** 1-Sep-2021

**Docket No.** 2021-1153-PWS-E

**PCW**

**Respondent** Plainview Bioenergy, LLC dba White Energy

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61264

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101983278

**Media** Public Water Supply

**Enf. Coordinator** Ecko Beggs

### 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> )	2	10%
	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)** 30%

#### >> Repeat Violator (Subtotal 3)

No

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

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for two NOVs with the same/similar violations and one agreed order containing a denial of liability. Reduction for High Performer Classification.

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

#### >> Final Compliance History Adjustment

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

Screening Date 1-Sep-2021

Docket No. 2021-1153-PWS-E

PCW

Respondent Plainview Bioenergy, LLC dba White Energy

Policy Revision 5 (January 28, 2021)

Case ID No. 61264

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101983278

Media Public Water Supply

Enf. Coordinator Ecko Beggs

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(2) and Tex. Health & Safety Code § 341.031(a)

Violation Description

Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter ("mg/L") for nitrate. Specifically, the single sample concentration for nitrate was 11 mg/L for the third quarter of 2021.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the acute MCL for nitrate caused the persons served by the Facility to be exposed to pollutants which exceed levels protective of human health.

Adjustment \$2,500

\$2,500

Violation Events

Number of Violation Events 1

91 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9,543

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

# Economic Benefit Worksheet

**Respondent** Plainview Bioenergy, LLC dba White Energy  
**Case ID No.** 61264  
**Reg. Ent. Reference No.** RN101983278  
**Media Violation No.** Public Water Supply  
 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)	\$40,000	30-Sep-2021	25-Feb-2025	3.41	\$454	\$9,089	\$9,543
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**  
 The delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the acute MCL for nitrate, calculated from the last day of the monitoring period of noncompliance to 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 \$40,000

**TOTAL** \$9,543

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 CN603145491, RN101983278, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN603145491, Plainview BioEnergy, LLC **Classification:** HIGH **Rating:** 0.00  
**Regulated Entity:** RN101983278, PLAINVIEW BIOENERGY **Classification:** HIGH **Rating:** 0.00  
**Complexity Points:** 16 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 2698 EAST UNITED STATES HIGHWAY 70 NEAR PLAINVIEW, HALE COUNTY, TEXAS  
**TCEQ Region:** REGION 02 - LUBBOCK

## ID Number(s):

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0950073

**AIR NEW SOURCE PERMITS PERMIT** 50867

**AIR NEW SOURCE PERMITS REGISTRATION** 163250

**AIR NEW SOURCE PERMITS AFS NUM** 4818900038

**STORMWATER PERMIT** TXR05X214

**WASTEWATER PERMIT** WQ0004935000

**POLLUTION PREVENTION PLANNING ID NUMBER** P09349

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** HA0179P

**AIR NEW SOURCE PERMITS PERMIT** 78440

**AIR NEW SOURCE PERMITS REGISTRATION** 146635

**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 82974

**WASTEWATER EPA ID** TX0132705

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER** HA0179P

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** December 13, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 13, 2016 to December 13, 2021

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

**Name:** Ecko Beggs

**Phone:** (915) 834-4968

## 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: 10/17/2017 ADMINORDER 2016-0569-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.117(h)

30 TAC Chapter 290, SubChapter F 290.117(i)(1)

40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.86

40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.90(a)

Description: LCR IN MR 1st 6M2015 - a. Failed to collect lead and copper tap samples at the required five sample sites for the first six-month monitoring period (January 1, 2015 through June 30, 2015) following the January 1, 2014 through December 31, 2014 monitoring period during which the copper action level was exceeded, have the samples analyzed, and report the results to the Executive Director.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(e)(2)

30 TAC Chapter 290, SubChapter F 290.117(h)

30 TAC Chapter 290, SubChapter F 290.117(i)(3)

40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.86

40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.90(a)

Description: LCR WQP MR - Failed to conduct water quality parameter sampling at each of the Facility's entry points and the required distribution sample site(s) for two consecutive six-month periods (January 1, 2015 through June 30, 2015 and July 1, 2015 through December 31, 2015) following the January 1, 2014 through December 31, 2014 monitoring period during which the copper action level was exceeded, have the samples analyzed, and report the results to the Executive Director.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(d)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.117(h)  
30 TAC Chapter 290, SubChapter F 290.117(i)(2)  
40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.88  
40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.90(b)

Description: LCR SOWT MR - Failed to collect one lead and copper sample from each of the Facility's entry points no later than 180 days after the end of the January 1, 2014 through December 31, 2014 monitoring period during which the copper action level was exceeded, have the samples analyzed, and report the results to the Executive Director.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(g)(2)(A)  
40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.83  
40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.90(d)(1)

Description: LCR SOWT - Failed to submit a recommendation to the Executive Director for source water treatment within six months after the end of the January 1, 2014 through December 31, 2014 monitoring period during which the copper action level was exceeded.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(e)  
30 TAC Chapter 290, SubChapter F 290.117(i)(3)

Description: LCR WQP MR - The system failed to monitor for water quality parameters in accordance with TCEQ rules two times during the 1st 6M2015 monitoring period at entry point location 2698 E US 70, Plainview (EP001) and the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(f)(3)(A)  
40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.81(e)(1)  
40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.82(a)  
40 CFR Chapter 141, SubChapter D, PT 141, SubPT I 141.90(c)(2)

Description: LCR OCCT - e. Failed to submit a recommendation to the Executive Director for optimal corrosion control treatment within six months after the end of the January 1, 2014 through December 31, 2014 monitoring period during which the copper action level was exceeded.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR WQP PN 2nd 6M2015 Posting and Reporting Violation - Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to conduct all of the required water quality parameter sampling during the July 1, 2015 through December 31, 2015 monitoring period.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR SOWT PN 06/01/2014 to 09/30/2014 Posting and Reporting Violation - Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect one lead and copper sample from each of the Facility's entry points no later than 180 days after the end of the January 1, 2014 through December 31, 2014 monitoring period.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR SOWT TT PN 06/01/2014 to 09/30/2014 Posting and Reporting Violation - Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a recommendation to the Executive Director for source water treatment.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR OCCT TT PN 06/01/2014 to 09/30/2014 Posting and Reporting Violation - Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a recommendation to the Executive Director for optimal corrosion control treatment.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR WQP PN 1st 6M2015 Posting and Reporting Violation - Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to conduct all of the required water quality

parameter sampling during the January 1, 2015 through June 30, 2015 monitoring period.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR RD MR PN YR2012 Posting and Reporting Violation - 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 at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2012 through December 31, 2012 monitoring period.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR RD MR PN YR2013 Posting and Reporting Violation - 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 at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2013 through December 31, 2013 monitoring period.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	December 15, 2016	(1392762)
Item 2	January 20, 2017	(1399381)
Item 3	February 01, 2017	(1388087)
Item 4	February 13, 2017	(1388948)
Item 5	February 17, 2017	(1406282)
Item 6	March 12, 2017	(1413399)
Item 7	March 31, 2017	(1402498)
Item 8	April 17, 2017	(1419847)
Item 9	May 09, 2017	(1427500)
Item 10	June 14, 2017	(1433508)
Item 11	July 12, 2017	(1442066)
Item 12	August 16, 2017	(1445735)
Item 13	September 14, 2017	(1452325)
Item 14	October 06, 2017	(1458198)
Item 15	October 11, 2017	(1438947)
Item 16	October 30, 2017	(1438949)
Item 17	October 31, 2017	(1448250)
Item 18	November 03, 2017	(1463629)
Item 19	November 15, 2017	(1448296)
Item 20	November 16, 2017	(1448388)
Item 21	December 22, 2017	(1455582)
Item 22	January 08, 2018	(1455586)
Item 23	January 11, 2018	(1464837)
Item 24	January 16, 2018	(1464745)
Item 25	February 08, 2018	(1488925)
Item 26	February 13, 2018	(1466540)
Item 27	April 12, 2018	(1495888)
Item 28	May 09, 2018	(1502848)
Item 29	June 14, 2018	(1509949)
Item 30	July 09, 2018	(1516262)
Item 31	July 23, 2018	(1503998)
Item 32	August 10, 2018	(1522309)
Item 33	September 06, 2018	(1512819)
Item 34	September 13, 2018	(1529499)
Item 35	October 10, 2018	(1535816)



nitrogen) with a sample result of 11 mg/L collected on 08/05/2021.

**F. Environmental audits:**

**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  
PLAINVIEW BIOENERGY, LLC  
DBA WHITE ENERGY  
RN101983278**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2021-1153-PWS-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Plainview Bioenergy, LLC dba White Energy (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 2698 East United States Highway 70 near Plainview, Hale 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 August 16, 2021 through August 27, 2021, an investigator documented that:
  - a. The Respondent did not collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2020 through December 31, 2020 monitoring period; and

- b. The single sample concentration for nitrate was 11 milligrams per liter ("mg/L") for the third quarter of 2021.
3. The Executive Director recognizes that by September 22, 2021, the Respondent collected lead and copper tap samples at the required five sample sites, had the samples analyzed, and reported the results to the Executive Director.

## **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.a, the Respondent failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(B), (h), and (i)(1).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to comply with the acute maximum contaminant level ("MCL") of 10 mg/L for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a).
4. 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.
5. An administrative penalty in the amount of \$3,982, 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 \$982 of the penalty. The TCEQ has determined that Conclusion of Law No. 3 of this Order qualifies for 100% deferral. Therefore, the remaining amount of \$3,000 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and 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 requirement contained in this Order, the Executive Director may demand payment of all or part of the conditionally deferred 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. 5 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: Plainview Bioenergy, LLC dba White Energy, Docket No. 2021-1153-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. The Respondent shall undertake the following technical requirements:
  - a. Within 180 days after the effective date of this Order, submit an acceptable written plan, including a proposed schedule and any applicable planning materials, to the Executive Director that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance within 1,095 days after the effective date of this order with the acute MCL for nitrate to the addresses listed in Ordering Provision No. 2.e.
  - b. Within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.e below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
  - c. Within 365 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.e below. These reports shall include information regarding action taken to provide water which meets the acute MCL for nitrate.
  - d. Within 1,095 days after the effective date of this Agreed Order, return to compliance with the acute MCL for nitrate, in accordance with 30 TEX. ADMIN. CODE § 290.106.
  - e. Within 1,110 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. 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:

Drinking Water Special Functions Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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. 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.
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 in this Order.
7. 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.
8. 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.

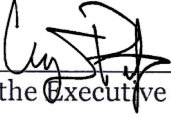
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date



10/12/2022

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

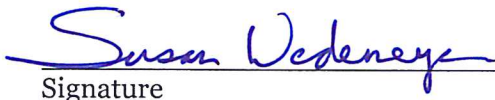
\_\_\_\_\_  
Date

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

3/28/2022  
\_\_\_\_\_  
Date

Susan Wedemeyer  
\_\_\_\_\_  
Name (Printed or typed)

EHS Site Mgr.  
\_\_\_\_\_  
Title

Authorized Representative of  
Plainview Bioenergy, LLC dba White Energy

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