

Executive Summary – Enforcement Matter – Case No. 61832
Dreamland tank town, llc
RN111393096
Docket No. 2022-0124-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - EAQ, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Dreamland at 2770 West U.S. Highway 290, Dripping Springs, Hays County

Type of Operation:

Commercial construction project

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 16, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,500

Amount Deferred for Expedited Settlement: \$4,500

Total Paid to General Revenue: \$9,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$4,500

Name of SEP: The Guadalupe-Blanco River Trust (Third-Party Pre-Approved)

Supplemental Environmental Project (“SEP”) Conditional Offset: \$4,500

Name of SEP: Texas Water Development Board (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: EAQ: Yes; WQ: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): June 8, 2021 and October 14, 2021

Complaint Information: Alleged flooding with sediment leaving site; lack of sediment controls on site and operating without an approved Edwards Aquifer Protection Plan (“EAPP”).

Date(s) of Investigation: July 8, 2021 and September 3, 2021

Executive Summary – Enforcement Matter – Case No. 61832

**Dreamland tank town, llc
RN111393096
Docket No. 2022-0124-MLM-E**

Date(s) of NOE(s): January 20, 2022

Violation Information

1. Failed to obtain approval of an EAPP prior to commencing a regulated activity over the Edwards Aquifer Contributing Zone. Specifically, the Respondent commenced construction of a commercial development project by constructing pickleball courts, live music stage area, minigolf course, disc golf course, and expanding the septic system. Additionally, a caliche/limestone pit was excavated to provide material for facility construction projects, dirt roads, and dilapidated structures. Furthermore, material piles were located at various places on the northern portion of the Site and modular homes with septic systems were installed north of the main event center. Approximately 7.31 acres of the Site was disturbed without approval of a Contributing Zone Plan ("CZP") [30 TEX. ADMIN. CODE § 213.23(a)(1)].

2. Failed to obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete two SEPs (see SEP Attachments A and B).

2. The Order will also require the Respondent to:

a. Within 30 days:

i. Prepare, submit, and obtain approval of an Edwards Aquifer CZP; and

ii. Develop and implement a stormwater pollution prevention plan, submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System, and obtain authorization to discharge stormwater associated with construction activities under TPDES General Permit No. TXR150000.

b. Within 45 days, submit written certification to demonstrate compliance with a.

Executive Summary – Enforcement Matter – Case No. 61832
Dreamland tank town, llc
RN111393096
Docket No. 2022-0124-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mark Gamble, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2587; 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: The Guadalupe-Blanco River Trust, 933 East Court Street, Seguin, Texas 78155

SEP Third-Party Administrator: Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231

Respondent: Zachary Ogden, Chief Executive Officer, Dreamland tank town, llc, 2770 West U.S. Highway 290, Dripping Springs, Texas 78620

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-Jan-2022	Screening	24-Jan-2022	EPA Due	
	PCW	25-Jan-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	Dreamland tank town, llc				
Reg. Ent. Ref. No.	RN111393096				
Facility/Site Region	11-Austin	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	61832	No. of Violations	1
Docket No.	2022-0124-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Mark Gamble
		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	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$627
 Estimated Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$15,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
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DEFERRAL	20.0% Reduction Adjustment	-\$3,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$12,000
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Screening Date 24-Jan-2022

Docket No. 2022-0124-MLM-E

PCW

Respondent Dreamland tank town, llc

Policy Revision 5 (January 28, 2021)

Case ID No. 61832

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111393096

Media Edwards Aquifer

Enf. Coordinator Mark Gamble

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

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 24-Jan-2022 **Docket No.** 2022-0124-MLM-E **PCW**
Respondent Dreamland tank town, llc *Policy Revision 5 (January 28, 2021)*
Case ID No. 61832 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111393096
Media Edwards Aquifer
Enf. Coordinator Mark Gamble

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 213.23(a)(1)
Violation Description Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Contributing Zone. Specifically, the Respondent commenced construction of a commercial development project by constructing pickleball courts, live music stage area, minigolf course, disc golf course, and expanding the septic system. Additionally, a caliche/limestone pit was excavated to provide material for facility construction projects, dirt roads, and dilapidated structures. Furthermore, material piles were located at various places on the northern portion of the Site and modular homes with septic systems were installed north of the main event center. Approximately 7.31 acres of the Site was disturbed without approval of a Contributing Zone Plan ("CZP").

Base Penalty \$25,000

>> 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			20.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$20,000

\$5,000

Violation Events

Number of Violation Events 3 Number of violation days 68

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Three monthly events are recommended, calculated from the date the violation was documented (November 17, 2021) to the screening date (January 24, 2022).

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount \$627 Violation Final Penalty Total \$15,000
This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent Dreamland tank town, llc
Case ID No. 61832
Reg. Ent. Reference No. RN111393096
Media Edwards Aquifer
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	\$10,000	17-Nov-2021	18-Feb-2023	1.25	\$627	n/a	\$627
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare, submit and obtain approval of an Edwards Aquifer CZP. Date required is the date was documented and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$627



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-Jan-2022			
	PCW	25-Jan-2022	Screening	24-Jan-2022	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Dreamland tank town, llc
Reg. Ent. Ref. No.	RN111393096
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61832	No. of Violations	1
Docket No.	2022-0124-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Edwards Aquifer	Enf. Coordinator	Mark Gamble
		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	\$7,500
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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.

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$627
 Estimated Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$7,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,500
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,500
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,000
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Screening Date 24-Jan-2022

Docket No. 2022-0124-MLM-E

PCW

Respondent Dreamland tank town, llc

Policy Revision 5 (January 28, 2021)

Case ID No. 61832

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111393096

Media Water Quality

Enf. Coordinator Mark Gamble

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

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 24-Jan-2022 **Docket No.** 2022-0124-MLM-E **PCW**
Respondent Dreamland tank town, llc *Policy Revision 5 (January 28, 2021)*
Case ID No. 61832 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111393096
Media Water Quality
Enf. Coordinator Mark Gamble

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121 and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000.

Base Penalty \$25,000

>> 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 requirement was not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 3 68 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Three monthly events are recommended, calculated from the date the violation was documented (November 17, 2021) to the screening date (January 24, 2022).

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$627

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent Dreamland tank town, llc
Case ID No. 61832
Reg. Ent. Reference No. RN111393096
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	17-Nov-2021	18-Feb-2023	1.25	\$627	n/a	\$627
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to develop and implement a stormwater pollution prevention plan, submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System and obtain authorization to discharge stormwater associated with construction activities under TPDES General Permit No. TXR150000. Date required is the date the violation was documented and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs
 (This area is currently blank for input.)

Approx. Cost of Compliance \$10,000

TOTAL \$627

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 CN605966662, RN111393096, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN605966662, Dreamland tank town, llc **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN111393096, DREAMLAND AT 2770 W US 290 DRIPPING SPRINGS TX **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 2770 West United States Highway 290 in Dripping Springs, Hays County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

WATER QUALITY NON PERMITTED ID NUMBER R11111393096

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: June 23, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 23, 2018 to June 23, 2023

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

Name: Mark Gamble

Phone: (512) 239-2587

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DREAMLAND TANK TOWN, LLC
RN111393096

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0124-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Dreamland tank town, llc (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, together stipulate that:

1. The Respondent owns and operates a commercial construction project located at 2770 West United States Highway 290 in Dripping Springs, Hays County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$22,500 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,000 of the penalty and \$4,500 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$9,000 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of two Supplemental Environmental Projects ("SEPs") as defined in the attached SEP Agreements ("Attachments A and B", 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 Agreements, as determined by the Executive Director

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During an investigation at the Site conducted on July 8, 2021 and September 3, 2021, an investigator documented that the Respondent:

1. Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Contributing Zone, in violation of 30 TEX. ADMIN. CODE § 213.23(a)(1). Specifically, the Respondent commenced construction of a commercial development project by constructing pickleball courts, live music stage area, minigolf course, disc golf course, and expanding the septic system. Additionally, a caliche/limestone pit was excavated to provide material for facility construction projects, dirt roads, and dilapidated structures. Furthermore, material piles were located at various places on the northern portion of the Site and modular homes with septic systems were installed north of the main event center. Approximately 7.31 acres of the Site was disturbed without approval of a Contributing Zone Plan ("CZP").
2. Failed to obtain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Dreamland tank town, llc, Docket No. 2022-0124-MLM-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 both SEPs as set forth in Section I, Paragraph No. 4. The amount of \$9,000 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEPs pursuant to the terms of the SEPs Agreement, as defined in Attachments A and B. Penalty payments for any portion of the SEPs deemed by the Executive Director as not complete shall be paid within the 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Prepare, submit, and obtain approval of an Edwards Aquifer CZP; and
 - ii. Develop and implement a stormwater pollution prevention plan, submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System, and obtain authorization to discharge stormwater associated with construction activities under TPDES General Permit No. TXR150000.
 - b. Within 45 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 Nos. 3.a.i and 3.a.ii. 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:

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

with a copy to:

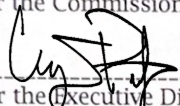
Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. 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 Site operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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 Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission Date
 5/30/2024

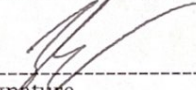
For the Executive Director Date

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.

 5/20/24

Signature Date
Zachary Ogden CEO

Name (Printed or typed) Title
Authorized Representative of
Dreamland tank town, llc

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

Attachment A
Docket Number: 2022-0124-MLM-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Dreamland tank town, llc
Payable Penalty Amount:	\$18,000
SEP Offset Amount:	\$4,500
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	The Guadalupe-Blanco River Trust
Project Name:	<i>Shorebird and Waterfowl Habitat Conservation and Restoration Project</i>
<u>Location of SEP:</u> Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Caldwell, Calhoun, Comal, DeWitt, Fayette, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Jackson, Karnes, Kendall, Kerr, Lavaca, Live Oak, Medina, Nueces, Real, Refugio, San Patricio, Travis, Victoria, and Wilson 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 Guadalupe-Blanco River Trust** for the *Shorebird and Waterfowl Habitat Conservation and Restoration Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to conduct due diligence, purchase conservation easements from private landowners, conduct restoration activities, and provide property stewardship.

After a property has been identified for conservation easement acquisition, the Third-Party Administrator shall submit a proposal to TCEQ that includes property owner information, metes and bounds, purchase price, amount of SEP Offset Amount to be used for due diligence and purchase, deed encumbrance language, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for approved due diligence activities and purchase of the conservation easement. The Third-Party Administrator shall address and remedy all encumbrances to the property title, including mortgages and other liens, prior to closing on the conservation easement purchase. The Third-Party Administrator shall not sell conservation easements or any other land interests acquired with the SEP Offset Amount. The Third-Party Administrator shall record a copy of each conservation easement in the county deed records within 15 days of closing. After a conservation easement is acquired, the Third-Party Administrator shall use the SEP Offset Amount for property stewardship to ensure that the terms of the easement are followed. Property stewardship activities include monitoring the property, compliance enforcement, and

providing continual resources to the property owner. The SEP Offset Amount shall not be used for any legal fees associated with property stewardship. The Third-Party Administrator certifies that the conservation easements purchased for this Project will not be part of a mitigation project.

The Third-Party Administrator shall also use the SEP Offset Amount for habitat restoration and enhancement, including planting native species, removal of invasive species, and grading. Restoration activities will be conducted by a contractor and will take place on public land managed by entities such as the Texas Parks and Wildlife Department and U.S. Fish and Wildlife Services or private property protected by a conservation easement. Restoration activities will take place on former wetlands with effectively drained hydric soil map units, filled areas with no development, impounded areas, excavated areas, or farmed wetlands as well as degraded wetlands that are partially drained, impounded, excavated, farmed, or contain tidal restrictions. Prior to starting restoration activities, the Third-Party Administrator shall submit a proposal to TCEQ that includes the exact property location and description, property owner information, specific restoration activities to be conducted, amount of the SEP Offset Amount to be used for restoration activities, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for the approved restoration activities. The SEP will be done 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 the Respondent 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 from this SEP.

b. Environmental Benefit

This Project is needed because important wildlife habitats for wetland-dependent and other species are under threat from an expanding human footprint into previously undeveloped areas. Conserving properties through conservation easements will ensure that those lands are permanently protected from environmentally harmful activities and use. Restoring habitats through native plantings, removal of invasive species, and grading will protect water quality and provide habitat for native birds and other aquatic and coastal species, such as the whooping crane, piping plover, reddish egret, sooty tern, white-faced ibis, white-tailed hawk, black-spotted newt, sheet frog, and northern Aplomado falcon. Potential property acquisition areas have been identified and prioritized as the highest quality habitat based on data derived from the U.S. Fish and Wildlife Service with input from Texas Parks and Wildlife Department, Ducks Unlimited, Gulf Coast Bird Observatory, and the International Crane Foundation. Protection of these strategic sites will also protect and improve both water quality and quantity through increased filtration into groundwater sources and increased filtration of pollutants. Potential restoration activity areas have been identified and prioritized based on maps of historic wetlands from the National Wetland Inventory and local wetland maps that have been detailed by U.S. Fish and Wildlife Services through the Coastal Prairie Conservation Initiative.

c. Minimum Expenditure

Dreamland tank town, llc
Docket No. 2022-0124-MLM-E
Agreed Order - Attachment A

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 **The Guadalupe-Blanco River Trust SEP** and shall mail the contribution with a copy of the Agreed Order to:

The Guadalupe-Blanco River Trust SEP
Attention: Executive Director
933 East Court Street
Seguin, Texas 78155

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.

Attachment B

Docket Number: 2022-0124-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Dreamland tank town, llc
Payable Penalty Amount:	\$18,000
SEP Offset Amount:	\$4,500
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Texas Water Development Board
Project Name:	<i>Water-Level Recorder Data in Every Texas County</i>
Total Project Budget:	\$997,500
Location of SEP:	Statewide; preference for Hays County

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 B.

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 **Texas Water Development Board** for the *Water-Level Recorder Data in Every Texas County* project (the “Project”). The Project is to purchase, install, and maintain automatic water-level recorders in unused wells in the remaining one hundred sixty-six (166) counties. The Third-Party Administrator shall give preference to installing water-level recorders initially in counties in which there are 1) no existing automatic water-level recorder wells, 2) no groundwater conservation district, or 3) groundwater conservation districts that do not have the staff and/or the financial ability to install an automatic water-level recorder. The Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

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 the Respondent 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 from this SEP.

B. Environmental Benefit

The groundwater stored within Texas’ minor and major aquifers is an important natural resource that is relied upon to meet the water supply demands of Texans across the state. Many factors affect the availability of this resource including drought and increased demand. This Project will provide statewide comprehensive real-time groundwater level data to Texas counties, cities, groundwater conservation districts, water supply companies, and individual well owners.

Dreamland tank town, llc
Docket No. 2022-0124-MLM-E
Agreed Order - Attachment B

The availability of this comprehensive data will promote awareness of the effects of drought on Texas' aquifers and assist in groundwater management planning and use throughout the state.

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 **Texas Water Development Board SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Water Development Board
Attention: Finance
P.O. Box 13231
Austin, Texas 78711-3231

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 B, 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:

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

Dreamland tank town, llc
Docket No. 2022-0124-MLM-E
Agreed Order - Attachment B

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 B 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.