

Executive Summary – Enforcement Matter – Case No. 62378
MO-VAC SERVICE COMPANY
RN104148044
Docket No. 2022-0644-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

MO-VAC SERVICE, located approximately three miles east of Laredo on Highway 359,
Laredo, Webb County

Type of Operation:

Waste disposal facility

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: June 30, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,231

Amount Deferred for Expedited Settlement: \$4,246

Total Paid to General Revenue: \$8,493

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$4,246

Name of SEP: The University of Texas at Austin Lyndon B. Johnson School of
Public Affairs (Third-Party Pre-Approved)

Supplemental Environmental Project (“SEP”) Conditional Offset: \$4,246

Name of SEP: Armand Bayou Nature Center, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

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Docket No. 2022-0644-WQ-E

Investigation Information

Complaint Date(s): January 26, 2022

Complaint Information: Alleged nuisance chemical odors in the area.

Date(s) of Investigation: March 1, 2022

Date(s) of NOE(s): May 10, 2022

Violation Information

Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXR05EN41 expired on November 12, 2021, and the Respondent continued to operate [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. Develop and implement a stormwater pollution prevention plan to comply with the requirements of TPDES Multi-Sector General Permit No. TXR050000; and
 - ii. Submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System to obtain authorization to discharge stormwater.
 - b. Within 45 days, submit written certification to demonstrate compliance with a.

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: John Thibodeaux, Enforcement Division, Enforcement Team 1, MC R-03, (409) 899-8753; 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 University of Texas at Austin, Office of Sponsored Projects, 101 East 27th Street, Stop A9000, Suite 5.300, Austin, Texas 78712-1532

SEP Third-Party Administrator: Armand Bayou Nature Center, Inc., P.O. Box 58828, Houston, Texas 77258

Respondent: Glynn Andrews, Chief Executive Officer, MO-VAC SERVICE COMPANY, P.O. Box 2677, McAllen, Texas 78502

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	16-May-2022	Screening	19-May-2022	EPA Due	
	PCW	27-May-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	MO-VAC SERVICE COMPANY
Reg. Ent. Ref. No.	RN104148044
Facility/Site Region	16-Laredo
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	62378	No. of Violations	1	
Docket No.	2022-0644-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Ellen Ojeda	
		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	\$17,500
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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	20.0%	Adjustment	Subtotals 2, 3, & 7	\$3,500
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Notes: Enhancement for one order containing a denial of liability.

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	\$461
Estimated Cost of Compliance	\$2,950

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.1%	Adjustment	\$231
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 1.

Final Penalty Amount	\$21,231
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,231
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,246
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$16,985
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Screening Date 19-May-2022

Docket No. 2022-0644-WQ-E

PCW

Respondent MO-VAC SERVICE COMPANY

Policy Revision 5 (January 28, 2021)

Case ID No. 62378

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN104148044

Media Water Quality

Enf. Coordinator Ellen Ojeda

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 19-May-2022 **Docket No.** 2022-0644-WQ-E **PCW**
Respondent MO-VAC SERVICE COMPANY *Policy Revision 5 (January 28, 2021)*
Case ID No. 62378 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN104148044
Media Water Quality
Enf. Coordinator Ellen Ojeda

Violation Number 1

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

Violation Description Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR05EN41 expired on November 12, 2021, and the Respondent continued to operate.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			10.0%

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

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 7 188 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$17,500

Seven monthly events are recommended, calculated from the permit application grace period end date (November 12, 2021) to the screening date (May 19, 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 \$17,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$461 **Violation Final Penalty Total** \$21,231

This violation Final Assessed Penalty (adjusted for limits) \$21,231

Economic Benefit Worksheet

Respondent MO-VAC SERVICE COMPANY
Case ID No. 62378
Reg. Ent. Reference No. RN104148044
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	\$225	13-Nov-2021	23-Jul-2023	1.69	\$19	n/a	\$19
Other (as needed)	\$2,500	13-Nov-2021	23-Jul-2023	1.69	\$211	n/a	\$211

Notes for DELAYED costs

Actual Permit Cost to submit a Notice of Intent ("NOI") to obtain authorization to discharge industrial stormwater. The Date Required is the first day following the permit application grace period end date, and the Final Date is the estimated date of compliance.

Estimated Other cost to develop and implement a stormwater pollution prevention plan and submit a copy of an NOI to obtain authorization to discharge industrial stormwater. The Date Required is the first date following the permit application grace period end date, 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)	\$225	13-Nov-2021	19-May-2022	0.51	\$6	\$225	\$231

Notes for AVOIDED costs

Actual Other Cost to submit an NOI to renew the permit. The Date Required is the first date following the permit application grace period end date, and the Final Date is the screening date.

Approx. Cost of Compliance \$2,950

TOTAL \$461



Compliance History Report

Compliance History Report for CN600784268, RN104148044, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600784268, Mo-Vac Service Company **Classification:** SATISFACTORY **Rating:** 26.67
Regulated Entity: RN104148044, MO-VAC SERVICE **Classification:** SATISFACTORY **Rating:** 26.67
Complexity Points: 2 **Repeat Violator:** NO
CH Group: 09 - Construction
Location: Approximately three miles east of Laredo on Highway 359, Webb County, Laredo, Texas
TCEQ Region: REGION 16 - LAREDO
ID Number(s):

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021
Date Compliance History Report Prepared: May 19, 2022
Agency Decision Requiring Compliance History: Enforcement
Component Period Selected: May 19, 2017 to May 19, 2022
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Ellen Ojeda **Phone:** (512) 239-2581

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: 10/25/2019 ADMINORDER 2018-0389-WQ-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 281, SubChapter A 281.25(a)(4)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
Description: Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under the Texas Pollutant Discharge Elimination System Industrial Multisector General Permit No. TXR05Q878 expired on November 14, 2016 and the Respondent continued to operate.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 2	March 21, 2018	(1478205)	Item 4	April 28, 2020	(1644540)
Item 3	October 18, 2019	(1603066)			

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
MO-VAC SERVICE COMPANY
RN104148044

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0644-WQ-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 MO-VAC SERVICE COMPANY (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 waste disposal facility located approximately three miles east of Laredo on Highway 359 in Laredo, Webb County, Texas (the "Facility"). The Facility 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 \$21,231 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$8,493 of the penalty and \$4,246 of the penalty 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 of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions 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, \$8,492 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of Supplemental Environmental Projects ("SEPs") as defined in the attached SEP Agreements ("Attachment A" and "Attachment 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 Facility conducted on March 1, 2022, an investigator documented that the Respondent failed to maintain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR05EN41 expired on November 12, 2021, and the Respondent continued to operate.

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: MO-VAC SERVICE COMPANY, Docket No. 2022-0644-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEPs as set forth in Section I, Paragraph No. 4. The amount of \$8,492 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEPs pursuant to the terms of the SEP Agreements, as defined in Attachment A and Attachment B. Penalty payments for any portion of the SEPs deemed by the Executive Director as not complete shall be paid within 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. Develop and implement a stormwater pollution prevention plan to comply with the requirements of TPDES Multi-Sector General Permit No. TXR050000; and
 - ii. Submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System to obtain authorization to discharge stormwater.
 - 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
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

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 Facility operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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.
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



For the Executive Director

7/7/2023

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 OAG 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 OAG 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

JUNE 01, 2023

Date

GLYNN ANDREWS

Name (Printed or typed)
Authorized Representative of
MO-VAC SERVICE COMPANY

CEO

Title

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

Attachment A

Docket Number: 2022-0644-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	MO-VAC SERVICE COMPANY
Payable Penalty Amount:	\$16,985
SEP Offset Amount:	\$4,246
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	The University of Texas at Austin Lyndon B. Johnson School of Public Affairs
Project Name:	<i>Lower Rio Grande Water Quality Initiatives</i>
Total Project Budget	\$25,008
Location of SEP:	Andrews, Brewster, Brooks, Cameron, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kinney, Kleberg, Loving, Maverick, Nueces, Pecos, Presidio, Reagan, Reeves, San Patricio, Schleicher, Starr, Sutton, Terrell, Upton, Val Verde, Ward, Webb, Willacy, Winkler, and Zapata 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 University of Texas at Austin Lyndon B. Johnson School of Public Affairs** for the *Lower Rio Grande Water Quality Initiative* project (the “Project”). The Project is to assist communities in the Lower Rio Grande region (from the Falcon Dam to the Gulf of Mexico) by working with TCEQ, Environmental Protection Agency, Comisión Nacional de Agua, and Comisión Estatal del Agua de Tamaulipas to improve Rio Grande water quality. The Third-Party Administrator shall support the bi-national technical committees associated with state, national, and international water institutions currently taking steps to improve water quality on the Lower Rio Grande by bringing to their attention the voices and concerns of the Lower Rio Grande region’s municipalities, counties, and irrigation districts.

The Third-Party Administrator shall use the SEP Offset Amount to provide technical assistance, such as creation of maps and graphics; analyses of surveys; and interviews with Texas stakeholders, to the technical groups working under the guidance of the International Boundary and Water Commission (“IBWC”) and its Mexican counterpart, Comisión Internacional de Límites y Agua. The Third-Party Administrator shall examine the impact of each of the potential infrastructure investments using water quality modeling and by conducting surveys of public opinion and preferences on improving water quality on both the United States and Mexico sides of the border.

The Project will be conducted by the Third-Party Administrator staff through fieldwork within the Rio Grande Valley, giving presentations, participating in the bi-national meetings held along the border, report drafting and document preparation, gathering and analyzing survey data in communities along the border, and modeling of water quality data gathered by IBWC. The SEP 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 in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

The Lower Rio Grande does not meet its designated use for contact recreation due to high levels of *Escherichia coli*, a fecal indicator of bacteria. High levels of *Escherichia coli* may indicate the presence of pathogenic organisms such as viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and sever gastroenteritis.

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 **The University of Texas at Austin Lyndon B. Johnson School of Public Affairs SEP** and shall mail the contribution with a copy of the Agreed Order to:

The University of Texas at Austin
Office of Sponsored Projects
Attention: Professor David Eaton, PhD
101 East 27th Street, Stop A9000, Suite 5.300
Austin, Texas 78712-1532

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 or email 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
SEPReports@tceq.texas.gov

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: 2022-0644-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	MO-VAC SERVICE COMPANY
Payable Penalty Amount:	\$16,985
SEP Offset Amount:	\$4,246
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Armand Bayou Nature Center, Inc.
Project Name:	<i>Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project</i>
Total Project Budget:	\$573,969
Location of SEP:	Harris 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 **Armand Bayou Nature Center, Inc.** for the *Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project* (the “Project”). The Project is to manage the Armand Bayou Nature Center (“ABNC”), which comprises of 2500 acres located in southeast Harris County. ABNC contains three unique and vanishing ecosystems: coastal tallgrass prairie, forested wetland, and the tidal marsh stream of Armand Bayou. Prescribed burning is one stewardship tool used to maintain a tallgrass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species, which primarily include the Chinese tallow tree and other woody plants. In addition, prescribed mowing shall be conducted on a rotational basis as needed for maintenance of native species and removal of non-native species. The Third-Party Administrator shall propagate terrestrial and aquatic native plants and install them to restore the Coastal Prairie, Tidal Marsh, and Forested Wetlands. The Third-Party Administrator will pay for the labor and material costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and plants. The Project will be performed 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 able to be spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

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

B. Environmental Benefit

The ecological services provided by the restoration and management of the Coastal Prairie, Tidal Marsh, and Forested Wetlands ecosystems working in concert will help minimize pollution, reduce the amount of pollutants reaching the environment, and enhance water quality and wildlife habitat.

Coastal prairie grasslands are considered fire-dependent plant communities and require frequent exposure to fire effects for full ecological function. Prescribed fire in prairies helps control invasive species, minimize accumulated grass thatch, promote enrichment of soil nutrients and improve prairie plant vigor. One additional benefit of controlled prescribed burns is the reduction of fuels and the prevention of wildfires. This is particularly critical in the urban environment to protect human life and property and to minimize the release of large amounts of particulate matter resulting from uncontrolled wildfires. This treatment ensures that these coastal prairie grasslands will perform at their highest ecological function and provide the maximum potential ecological service to benefit water quality.

Mowing and targeted application of specialized herbicides will also help manage prairie species and remove non-native species. Propagation and installation of native plants will restore the natural balance to these ecosystems, reduce erosion, and increase habitat for wildlife. Plant installation in the Forested Wetland and Tidal Marsh will improve water quality by restoring depleted oxygen levels, providing habitat and nourishment for aquatic organisms, and reclaiming the area for native plants.

Proper management and restoration of these ecosystems will maximize the ecological services that they provide to Armand Bayou and Galveston Bay.

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 **Armand Bayou Nature Center, Inc. SEP** and shall mail the contribution with a copy of the Agreed Order to:

Armand Bayou Nature Center, Inc.
Attention: Chris Smith, Biologist
P.O. Box 58828
Houston, Texas 77258

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:

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 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.