

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel

Thru: *MBC* Melissa Cordell, Assistant Deputy Director
Enforcement Division

From: *MP* Michael Parrish, Agenda Special Assistant
Enforcement Division

Date: March 28, 2025

Subject: **Backup Revision**
April 3, 2025 Commission Agenda
Item No. 8 – San Miguel Electric Cooperative, Inc.
Docket No. 2022-0684-AIR-E

Enclosed please find the following:

Agreed Order

- Pages 3 and 4, Section IV. Ordering Provisions – Added new paragraph 2 to indicate the requirements of the Supplemental Environmental Project. Additionally, the following paragraphs were renumbered

Please do not hesitate to call Michael Parrish at (512) 239-2548 if you have any questions regarding this matter.

cc: Garrett Arthur, Public Interest Counsel
Melissa Schmidt, Public Interest Counsel
Gill Valls, Office of General Counsel
Katherine McKenzie, Agenda Coordinator, Litigation Division
Amy Settemeyer, Deputy Director, Enforcement Division
Melissa Cordell, Assistant Deputy Director, Enforcement Division
Rebecca Margain-Nunez, Executive Assistant, Enforcement Division
Johnny Bowers, Manager, Air Section, Enforcement Division
Margarita Dennis, Team Leader, Air Section Enforcement Division
Mackenzie Mehlmann, Enforcement Coordinator, Air Section, Enforcement Division

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: San Miguel Electric Cooperative, Inc., Docket No. 2022-0684-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 10388
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$38,700 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.
7. 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.

8. 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.

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: San Miguel Electric Cooperative, Inc., Docket No. 2022-0684-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 10388
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$38,700 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.
7. 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.

8. 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.

Executive Summary – Enforcement Matter – Case No. 62400
San Miguel Electric Cooperative, Inc.
RN100226539
Docket No. 2022-0684-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

San Miguel Electric Plant, 6200 Farm-to-Market Road 3387, Christine, Atascosa County

Type of Operation:

Electric power generation plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 25, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$48,375

Amount Deferred for Expedited Settlement: \$9,675

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$38,700

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

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 3, 2022 and April 4, 2023

Date(s) of NOE(s): May 3, 2023 and May 26, 2023

Violation Information

Executive Summary – Enforcement Matter – Case No. 62400
San Miguel Electric Cooperative, Inc.
RN100226539
Docket No. 2022-0684-AIR-E

1. Failed to comply with the emissions limit. Specifically, the Respondent exceeded the mercury emissions limit of 4.00 pounds per one trillion British thermal units ("lbs/TBtu") based on a 30-day rolling average by a range from 0.011 lb/TBtu to 1.024 lbs/TBtu for a total of 30 days from June 23, 2021 through July 22, 2021 for the Boiler Stack, Emissions Point Number ("EPN") 6 [30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.9991(a)(1), Federal Operating Permit ("FOP") No. O85, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the emissions limit. Specifically, the Respondent exceeded the mercury emissions limit of 4.00 lbs/TBtu based on a 30-day rolling average by a range from 0.005 lb/TBtu to 1.57 lbs/TBtu for a total of 90 days from February 24, 2022 through May 24, 2022 and by a range from 0.01 lb/TBtu to 0.84 lb/TBtu for a total of 26 days from August 6, 2022 through August 31, 2022 for the Boiler Stack, EPN 6 [30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, and 122.143(4), 40 CFR § 63.9991(a)(1), FOP No. O85, GTC and STC No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By March 12, 2023, the Respondent increased the feed rate of the Mercury Capture System, began operating both trains to reduce emissions, reduced production to expedite the reduction of mercury emissions, increased the activated carbon storage to alleviate supply chain concerns of maintaining inventory at the maximized feed rates, and repaired leaks in order to comply with the mercury emissions limit of 4.00 lbs / TBtu based on a 30-day rolling average for the Boiler Stack, EPN 6.

Technical Requirements:

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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mackenzie Mehlmann, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2572; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: The Guadalupe-Blanco River Trust SEP, 933 East Court Street, Seguin, Texas 78155

Respondent: Craig Courter, Chief Executive Officer, San Miguel Electric Cooperative, Inc., P.O. Box 280, Christine, Texas 78026

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned PCW	10-May-2022	Screening	17-May-2022	EPA Due	26-Oct-2022
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RESPONDENT/FACILITY INFORMATION	
Respondent	San Miguel Electric Cooperative, Inc.
Reg. Ent. Ref. No.	RN100226539
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	62400	No. of Violations	2
Docket No.	2022-0684-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Mackenzie Mehlmann
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$37,500
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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	51.0%	Adjustment	Subtotals 2, 3, & 7	\$19,125
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Notes: Enhancement for one NOV with same or similar violations, three NOVs with dissimilar violations, and two orders 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	-\$8,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$4,295
Estimated Cost of Compliance	\$50,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$48,375
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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	\$48,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$48,375
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DEFERRAL	20.0%	Reduction	Adjustment	-\$9,675
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$38,700
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Screening Date 17-May-2022

Docket No. 2022-0684-AIR-E

PCW

Respondent San Miguel Electric Cooperative, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 62400

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100226539

Media Air

Enf. Coordinator Mackenzie Mehlmann

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>)	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 51%

>> 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 NOV with same or similar violations, three NOVs with dissimilar violations, and two orders containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 51%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 51%

Screening Date 17-May-2022 **Docket No.** 2022-0684-AIR-E **PCW**
Respondent San Miguel Electric Cooperative, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 62400 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100226539
Media Air
Enf. Coordinator Mackenzie Mehlmann

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 113.1300, and 122.143(4), 40 Code of Federal Regulations ("CFR") § 63.9991(a)(1), Federal Operating Permit ("FOP") No. O85, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 1.A., and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to comply with the emissions limit. Specifically, the Respondent exceeded the mercury emissions limit of 4.00 pounds per one trillion British thermal units ("lbs/TBtu") based on a 30-day rolling average by a range from 0.011 lb/TBtu to 1.024 lbs/TBtu for a total of 30 days from June 23, 2021 through July 22, 2021 for the Boiler Stack, Emissions Point Number ("EPN") 6.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	30.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the period of non-compliance that occurred from June 23, 2021 through July 22, 2021.

Good Faith Efforts to Comply 10.0% Reduction \$750

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

Notes The Respondent completed the corrective measures by March 12, 2023, after the Notice of Enforcement ("NOE") dated May 3, 2022.

Violation Subtotal \$6,750

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

Estimated EB Amount \$4,295 **Violation Final Penalty Total** \$10,575

This violation Final Assessed Penalty (adjusted for limits) \$10,575

Economic Benefit Worksheet

Respondent San Miguel Electric Cooperative, Inc.
Case ID No. 62400
Reg. Ent. Reference No. RN100226539
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50,000	23-Jun-2021	12-Mar-2023	1.72	\$4,295	n/a	\$4,295

Notes for DELAYED costs

Estimated cost to increase the feed rate of the Mercury Capture System, begin operating both trains to reduce emissions, reduce production to expedite the reduction of mercury emissions, increase the activated carbon storage to alleviate supply chain concerns of maintaining inventory at the maximized feed rates, and repair leaks in order to comply with the mercury emissions limit of 4.00 lbs/TBtu based on a 30-day rolling average for the Boiler Stack, EPN 6. The Date Required is the first date of non-compliance and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$4,295

Screening Date 17-May-2022 **Docket No.** 2022-0684-AIR-E **PCW**
Respondent San Miguel Electric Cooperative, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 62400 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100226539
Media Air
Enf. Coordinator Mackenzie Mehlmann

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2), 113.1300, and 122.143(4), 40 CFR § 63.9991(a)(1), FOP No. O85, GTC and STC No. 1.A., and Tex. Health & Safety Code §382.085(b)
Violation Description Failed to comply with the emissions limit. Specifically, the Respondent exceeded the mercury emissions limit of 4.00 lbs/TBtu based on a 30-day rolling average by a range from 0.005 lb/TBtu to 1.57 lbs/TBtu for a total of 90 days from February 24, 2022 through May 24, 2022 and by a range from 0.01 lb/TBtu to 0.84 lb/TBtu for a total of 26 days from August 6, 2022 through August 31, 2022 for the Boiler Stack, EPN 6.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 4 116 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$30,000

Four monthly events are recommended for the instances of noncompliance that occurred from February 24, 2022 through May 24, 2022 and from August 6, 2022 through August 31, 2022.

Good Faith Efforts to Comply 25.0% Reduction \$7,500

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

Notes The Respondent completed the corrective measures by March 12, 2023, prior to the NOE dated May 26, 2023.

Violation Subtotal \$22,500

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$37,800

This violation Final Assessed Penalty (adjusted for limits) \$37,800

Economic Benefit Worksheet

Respondent San Miguel Electric Cooperative, Inc.
Case ID No. 62400
Reg. Ent. Reference No. RN100226539
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See the Economic Benefit in Violation No. 1.

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 \$0

TOTAL \$0

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 CN600132278, RN100226539, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600132278, San Miguel Electric Cooperative, Inc. **Classification:** SATISFACTORY **Rating:** 4.50
Regulated Entity: RN100226539, San Miguel Electric Plant **Classification:** SATISFACTORY **Rating:** 5.38
Complexity Points: 19 **Repeat Violator:** NO
CH Group: 06 - Electric Power Generation
Location: 6200 Farm-to-Market 3387, Christine, Atascosa County, Texas
TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER AG0007G
AIR NEW SOURCE PERMITS PERMIT 4180A

AIR NEW SOURCE PERMITS REGISTRATION 54118
AIR NEW SOURCE PERMITS REGISTRATION 99921
AIR NEW SOURCE PERMITS REGISTRATION 123647
USED OIL EPA ID TXD088484852
WASTEWATER PERMIT WQ0002043000
WASTEWATER PERMIT 2E0000151

POLLUTION PREVENTION PLANNING ID NUMBER P01686

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 31434

TAX RELIEF ID NUMBER 16943
TAX RELIEF ID NUMBER 16942
TAX RELIEF ID NUMBER 21932
TAX RELIEF ID NUMBER 23866
TAX RELIEF ID NUMBER 23509
TAX RELIEF ID NUMBER 17921
TAX RELIEF ID NUMBER 16334
TAX RELIEF ID NUMBER 18884
TAX RELIEF ID NUMBER 18885
TAX RELIEF ID NUMBER 17920
TAX RELIEF ID NUMBER 20461
TAX RELIEF ID NUMBER 22561
TAX RELIEF ID NUMBER 25853
TAX RELIEF ID NUMBER 25854

COAL COMBUSTION RESIDUALS REGISTRATION CCR109

AIR OPERATING PERMITS PERMIT 85
AIR NEW SOURCE PERMITS ACCOUNT NUMBER AG0007G
AIR NEW SOURCE PERMITS AFS NUM 4801300007
AIR NEW SOURCE PERMITS REGISTRATION 101700
USED OIL REGISTRATION A85466
STORMWATER PERMIT TXR05L582
WASTEWATER EPA ID TX0083445
AIR EMISSIONS INVENTORY ACCOUNT NUMBER AG0007G
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD088484852
TAX RELIEF ID NUMBER 20020
TAX RELIEF ID NUMBER 16328
TAX RELIEF ID NUMBER 21931
TAX RELIEF ID NUMBER 23508
TAX RELIEF ID NUMBER 23865
TAX RELIEF ID NUMBER 23867
TAX RELIEF ID NUMBER 16333
TAX RELIEF ID NUMBER 16335
TAX RELIEF ID NUMBER 16332
TAX RELIEF ID NUMBER 16329
TAX RELIEF ID NUMBER 20460
TAX RELIEF ID NUMBER 17922
TAX RELIEF ID NUMBER 22559
TAX RELIEF ID NUMBER 25855
TAX RELIEF ID NUMBER 25852

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: May 20, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 20, 2019 to May 20, 2024

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

Name: Mackenzie Mehlmann

Phone: (512) 239-2572

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: 07/16/2019 ADMINORDER 2018-1285-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Conditions OP

Description: Failure to report all permit deviations.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Conditions OP

Description: Failure to report all permit deviations.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.1300
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUUUU 63.9991(a)(1)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: NSR Permit No. 4180A SC No. 2 PERMIT

Description: Failure to prevent an exceedance of the 30-boiler operating day rolling average emissions limit for Mercury.

2 Effective Date: 04/18/2022 ADMINORDER 2020-0622-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.1300
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUUUU 63.10005(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O85 STC No. 1 OP

Special Condition 1 PA

Special Terms and Condition 10 OP

Description: Exceeded a particulate emissions rate in Permit No. 4180A and Federal Emissions Limit.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
30 TAC Chapter 113, SubChapter C 113.1300
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUUUU 63.10005(a)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O85 GTC and STC 10 OP

Special Condition 1 PERMIT

STC 1 OP

Description: Particulate Emissions exceeded a permit limit and Federal Emissions Limit.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 13, 2019	(1585447)
Item 2	July 11, 2019	(1594283)
Item 3	August 19, 2019	(1600574)
Item 4	August 30, 2019	(1582346)
Item 5	September 12, 2019	(1607479)
Item 6	October 14, 2019	(1614357)
Item 7	November 14, 2019	(1620148)
Item 8	November 20, 2019	(1598431)
Item 9	December 17, 2019	(1627495)
Item 10	January 16, 2020	(1635128)
Item 11	February 13, 2020	(1641743)
Item 12	February 21, 2020	(1631124)
Item 13	March 09, 2020	(1648257)
Item 14	March 16, 2020	(1624617)
Item 15	April 14, 2020	(1654609)
Item 16	April 21, 2020	(1638519)
Item 17	May 07, 2020	(1638526)
Item 18	May 12, 2020	(1661175)
Item 19	June 09, 2020	(1667704)
Item 20	July 14, 2020	(1674652)
Item 21	August 12, 2020	(1681424)
Item 22	September 16, 2020	(1688001)
Item 23	November 16, 2020	(1715675)
Item 24	December 15, 2020	(1715676)
Item 25	January 14, 2021	(1715677)
Item 26	January 27, 2021	(1645014)
Item 27	February 09, 2021	(1728753)
Item 28	March 09, 2021	(1728754)
Item 29	April 13, 2021	(1728755)
Item 30	April 27, 2021	(1702220)
Item 31	May 10, 2021	(1741672)
Item 32	June 11, 2021	(1741673)
Item 33	June 29, 2021	(1640174)
Item 34	July 14, 2021	(1752773)
Item 35	July 15, 2021	(1737483)
Item 36	August 17, 2021	(1758186)
Item 37	October 06, 2021	(1777903)
Item 38	October 28, 2021	(1644330)
Item 39	November 17, 2021	(1784702)
Item 40	December 02, 2021	(1791732)
Item 41	January 06, 2022	(1799571)
Item 42	February 17, 2022	(1807406)
Item 43	March 11, 2022	(1794628)
Item 44	March 15, 2022	(1814457)
Item 45	March 29, 2022	(1802008)
Item 46	April 14, 2022	(1821026)
Item 47	May 17, 2022	(1829865)
Item 48	June 15, 2022	(1836159)
Item 49	June 21, 2022	(1819055)
Item 50	July 19, 2022	(1843359)
Item 51	August 18, 2022	(1849524)
Item 52	October 13, 2022	(1863646)
Item 53	November 18, 2022	(1870556)
Item 54	December 20, 2022	(1876410)
Item 55	January 19, 2023	(1883224)
Item 56	February 20, 2023	(1891041)
Item 57	March 20, 2023	(1899608)
Item 58	March 24, 2023	(1894847)
Item 59	April 20, 2023	(1906411)

Item 60	May 20, 2023	(1913566)
Item 61	July 20, 2023	(1927142)
Item 62	August 17, 2023	(1934105)
Item 63	September 20, 2023	(1940244)
Item 64	October 12, 2023	(1947082)
Item 65	November 13, 2023	(1952770)
Item 66	December 18, 2023	(1962544)
Item 67	January 16, 2024	(1969131)
Item 68	February 16, 2024	(1978197)
Item 69	March 20, 2024	(1984770)

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.

- 1 Date: 05/26/2023 (1867384)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 12 PERMIT
Special Condition 8 OP
- Description: Failure to maintain Carbon monoxide (CO) below the 1-hour CO hourly emissions limit. EIC B13, 60.2(d)(2)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT D 60.43(a)(2)
5C THSC Chapter 382 382.085(b)
Special Condition 4 PERMIT
Special Condition 8 OP
- Description: Failure to maintain Sulfur dioxide (SO2) limits below the 3-hour rolling average. EIC B13, 60.2(d)(2)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 113, SubChapter C 113.1300
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UUUUU 63.9991(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition 1 PERMIT
Special Condition 8 ORDER
- Description: Failure maintain Particulate Matter emissions below limit during stack test. EIC B13, 60.2(d)(2)
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 7 PERMIT
Special Condition 8 OP
- Description: Failure to operate the boiler below the maximum allowed boiler firing rate. EIC C4, 60.2(d)(3)(D)
- 2 Date: 05/31/2023 (1920174)
- Self Report? YES Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 08/31/2023 (1917159)
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 210, SubChapter C 210.34
30 TAC Chapter 210, SubChapter C 210.34(1)
30 TAC Chapter 210, SubChapter C 210.34(2)
Additional Requirements No.1 PERMIT
- Description: Failure to analyze the effluent samples within the required holding time.
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 25, SubChapter A 25.1

Additional Requirement No. 3 PERMIT
 Description: Failure to utilize a National Environmental Laboratory Accreditation Program (NELAP) accredited laboratory for analytical data of reclaimed water effluent.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 210, SubChapter C 210.36(2)
 30 TAC Chapter 210, SubChapter C 210.36(2)(A)
 30 TAC Chapter 210, SubChapter C 210.36(2)(B)
 Additional Requirements No. 7 PERMIT
 Description: Failure to provide monthly effluent reports.

4 Date: 03/22/2024 (1949725)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.13
 5C THSC Chapter 382 382.085(b)
 Special Condition 10 PERMIT
 Special Condition 4 OP
 Description: The facility failed to conduct the zero-alignment audit of the Continuous Opacity Monitoring System (COMS) once every three years. The COMS audit was last conducted on August 6, 2019, establishing a due date of August 6, 2022. The missed audit was self-documented in San Miguel's Deviation Report dated July 27, 2023.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THSC Chapter 382 382.085(b)
 Special Condition 13 OP
 Description: Failure to submit a completed compliance certification to the executive director within 30 days of any certification period.

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
SAN MIGUEL ELECTRIC
COOPERATIVE, INC.
RN100226539

§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0684-AIR-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 San Miguel Electric Cooperative, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an electric power generation plant located at 6200 Farm-to-Market Road 3387 in Christine, Atascosa County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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. HEALTH & SAFETY CODE ch. 382 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 \$48,375 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$9,675 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, \$38,700 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

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.
9. The Executive Director recognizes that by March 12, 2023, the Respondent increased the feed rate of the Mercury Capture System, began operating both trains to reduce emissions, reduced production to expedite the reduction of mercury emissions, increased the activated carbon storage to alleviate supply chain concerns of maintaining inventory at the maximized feed rates, and repaired leaks in order to comply with the mercury emissions limit of 4.00 pounds per one trillion British thermal units ("lbs/TBtu") based on a 30-day rolling average for the Boiler Stack, Emissions Point Number ("EPN") 6.

II. ALLEGATIONS

1. During an investigation at the Plant conducted on March 3, 2022, an investigator documented that the Respondent failed to comply with the emissions limit, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 63.9991(a)(1), Federal Operating Permit ("FOP") No. O85, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the mercury emissions limit of 4.00 lbs/TBtu based on a 30-day rolling average by a range from 0.011 lb/TBtu to 1.024 lbs/TBtu for a total of 30 days from June 23, 2021 through July 22, 2021 for the Boiler Stack, EPN 6.
2. During a record review for the Plant conducted on April 4, 2023, an investigator documented that the Respondent failed to comply with the emissions limit, in violation of 30 TEX. ADMIN. CODE §§ 101.20(2), 113.1300, and 122.143(4), 40 CFR § 63.9991(a)(1), FOP No. O85, GTC and STC No. 1.A., and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent exceeded the mercury emissions limit of 4.00 lbs/TBtu based on a 30-day rolling average by a range from 0.005 lb/TBtu to 1.57 lbs/TBtu for a total of 90 days from February 24, 2022 through May 24, 2022 and by a range from 0.01 lb/TBtu to 0.84 lb/TBtu for a total of 26 days from August 6, 2022 through August 31, 2022 for the Boiler Stack, EPN 6.

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: San Miguel Electric Cooperative, Inc., Docket No. 2022-0684-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 10388
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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.
6. 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.

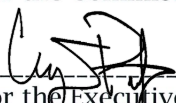
7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



2/18/2025

For the Executive Director

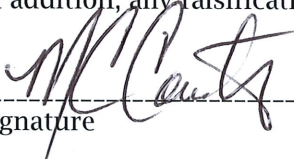
Date

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 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

February 6, 2025

Date

Craig Courter

General Manager/CEO - San Miguel Electric Cooperative, Inc.

Name (Printed or typed)
Authorized Representative of
San Miguel Electric Cooperative, Inc.

Title

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: 2022-0684-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	San Miguel Electric Cooperative, Inc.
Payable Penalty Amount:	\$38,700
SEP Offset Amount:	\$38,700
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 the administrative payable 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

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:

San Miguel Electric Cooperative, Inc.
Docket No. 2022-0684-AIR-E
Agreed Order - Attachment A

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.