

**Executive Summary – Enforcement Matter – Case No. 63412**

**Pilot Texas West LLC**

**RN110599305**

**Docket No. 2022-1669-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

PWS

**Small Business:**

No

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

Pilot Travel Center 1205, 4840 East IH-20 near Monahans, Ward County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 5, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$4,500

**Amount Deferred for Naturally Occurring Inorganic Contaminants:** \$4,500

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

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** November 14, 2022 through December 2, 2022

**Date(s) of NOE(s):** December 2, 2022

**Executive Summary – Enforcement Matter – Case No. 63412**

**Pilot Texas West LLC**

**RN110599305**

**Docket No. 2022-1669-PWS-E**

***Violation Information***

Failed to comply with the acute maximum contaminant level of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By May 19, 2023, the Respondent returned to compliance with the acute maximum contaminant level of 10 milligrams per liter for nitrate at the Facility.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Emerson Rinewalt, Enforcement Division, Enforcement Team 5, MC 219, (512) 239-1131; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** David Clothier, President, Pilot Texas West LLC, 5508 Lonas Drive, Knoxville, Tennessee 37909

Joey Cupp, Senior Director, Pilot Texas West LLC, 5508 Lonas Drive, Knoxville, Tennessee 37909

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	5-Dec-2022			
	<b>PCW</b>	16-Dec-2022	<b>Screening</b>	9-Dec-2022	<b>EPA Due</b> 31-Dec-2022

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Pilot Texas West LLC				
<b>Reg. Ent. Ref. No.</b>	RN110599305				
<b>Facility/Site Region</b>	7-Midland		<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	63412	<b>No. of Violations</b>	1
<b>Docket No.</b>	2022-1669-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Emerson Rinewalt
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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<b>Notes</b>	No adjustment for Compliance History.			
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.				
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$500
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2,478	<i>*Capped at the Total EB \$ Amount</i>
Estimated Cost of Compliance	\$40,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,500
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<b>DEFERRAL</b>	<b>100.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	-\$4,500
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	The Executive Director recommends a conditional deferral for naturally occurring constituents.				
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<b>PAYABLE PENALTY</b>	\$0
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Screening Date

9-Dec-2022

Docket No.

2022-1669-PWS-E

PCW

Respondent

Pilot Texas West LLC

Case ID No.

63412

Reg. Ent. Reference No.

RN110599305

Media

Public Water Supply

Enf. Coordinator

Emerson Rinewalt

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

<b>Screening Date</b>	9-Dec-2022	<b>Docket No.</b>	2022-1669-PWS-E	<b>PCW</b>
<b>Respondent</b>	Pilot Texas West LLC			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	63412			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN110599305			
<b>Media</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Emerson Rinewalt			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.106(f)(2) and Tex. Health & Safety Code § 341.031(a)			
<b>Violation Description</b>	Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter ("mg/L") for nitrate. Specifically, the single sample concentrations for nitrate were 12 mg/L for the second and third quarters of 2022.			
		<b>Base Penalty</b>	\$5,000	
>> Environmental, Property and Human Health Matrix				
OR	<b>Release</b>	<b>Harm</b>		
		Major Moderate Minor		
	Actual	X		
Potential				
		<b>Percent</b>	50.0%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<b>Percent</b>	0.0%		
Matrix Notes	Exceeding the acute MCL for nitrate caused the persons served by the Facility to be exposed to contaminants which exceed levels protective of human health.			
	<b>Adjustment</b>	\$2,500		
		\$2,500		
Violation Events				
	Number of Violation Events	2	182	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly	X		
	semiannual			
	annual			
	single event			
	<b>Violation Base Penalty</b>	\$5,000		
	Two quarterly events are recommended.			
<b>Good Faith Efforts to Comply</b>		10.0%	<b>Reduction</b>	\$500
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary		X	
	N/A			
	Notes	The Respondent achieved compliance on May 19, 2023.		
	<b>Violation Subtotal</b>	\$4,500		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	\$2,478	<b>Violation Final Penalty Total</b>	\$4,500
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$4,500

# Economic Benefit Worksheet

**Respondent** Pilot Texas West LLC  
**Case ID No.** 63412  
**Reg. Ent. Reference No.** RN110599305  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40,000	30-Jun-2022	19-May-2023	0.88	\$118	\$2,360	\$2,478
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	The delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the acute MCL for nitrate, calculated from the last day of the first monitoring period of noncompliance to the date of compliance.						

## Avoided Costs

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

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

Approx. Cost of Compliance	\$40,000	TOTAL	\$2,478
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# Compliance History Report

Compliance History Report for CN605604628, RN110599305, Rating Year 2024 which includes Compliance History (CH) components from September 1, 2019, through August 31, 2024.

<b>Customer, Respondent, or Owner/Operator:</b>	CN605604628, Pilot Texas West LLC	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Regulated Entity:</b>	RN110599305, PILOT TRAVEL CENTER 1205	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	01 - Gas Stations with convenience Stores and other Gas Stations		
<b>Location:</b>	4840 EAST INTERSTATE 20 NEAR MONAHANS, WARD COUNTY, TX		
<b>TCEQ Region:</b>	REGION 07 - MIDLAND		
<b>ID Number(s):</b>			
<b>PUBLIC WATER SYSTEM/SUPPLY REGISTRATION</b>	<b>PETROLEUM STORAGE TANK REGISTRATION</b>		
2380030	REGISTRATION 90363		
<b>WATER QUALITY NON PERMITTED ID NUMBER</b>			
R07110599305			
<b>Compliance History Period:</b>	September 01, 2019 to August 31, 2024	<b>Rating Year:</b>	2024
		<b>Rating Date:</b>	09/01/2024
<b>Date Compliance History Report Prepared:</b>	January 24, 2024		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	January 24, 2019 to January 24, 2024		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Emerson Rinewalt	<b>Phone:</b>	(512) 239-1131

## 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:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

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

Item 1	July 28, 2020	(1658096)
Item 2	August 31, 2021	(1735654)
Item 3	February 16, 2022	(1790506)

**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  
PILOT TEXAS WEST LLC  
RN110599305

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY  
§

## AGREED ORDER DOCKET NO. 2022-1669-PWS-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Pilot Texas West LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 4840 East Interstate 20 near Monahans, Ward County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 20 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(73).
2. During a record review conducted on November 14, 2022 through December 2, 2022, an investigator documented that the single sample concentrations for nitrate were 12 milligrams per liter ("mg/L") for the second and third quarters of 2022.
3. The Executive Director recognizes that by May 19, 2023, the Respondent returned to compliance with the acute maximum contaminant level ("MCL") of 10 mg/L for nitrate at the Facility.

## II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with the acute MCL of 10 mg/L for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$4,500 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The amount of \$4,500 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Order, the Executive Director may demand payment of all or part of the conditionally deferred penalty.

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Pilot Texas West LLC, Docket No. 2022-1669-PWS-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and

substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
6. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
4/15/2024

\_\_\_\_\_  
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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joey Cupp  
Name (Printed or typed)  
Authorized Representative of  
Pilot Texas West LLC

\_\_\_\_\_  
Title

\_\_\_\_\_  
2-27-24  
Sr. Director, ENV.

☐ 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.