

Executive Summary – Enforcement Matter – Case No. 63461
ATKINSON CANDY COMPANY
RN100598929
Docket No. 2023-0030-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Atkinson Candy, 1608 West Frank Avenue, Lufkin, Angelina County

Type of Operation:

Candy manufacturing company

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: September 27, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$60,000

Amount Deferred for Expedited Settlement: \$12,000

Total Paid to General Revenue: \$8,000

Total Due to General Revenue: \$40,000

Payment Plan: 5 payments of \$8,000 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): September 23, 2022

Complaint Information: Alleged the Respondent's processing plant was washing out their delivery trucks and having the water leave the facility. The contaminated water traveled down the culvert to the complainant's commercial property causing odors and vectors.

Date(s) of Investigation: October 3, 2022 through October 19, 2022

Date(s) of NOE(s): December 9, 2022

Executive Summary – Enforcement Matter – Case No. 63461
ATKINSON CANDY COMPANY
RN100598929
Docket No. 2023-0030-WQ-E

Violation Information

1. Failed to prevent an unauthorized discharge of industrial process wastewater into or adjacent to any water in the state. Specifically, boiler blowdown wastewater was being discharged into a stormwater culvert that drained into an unnamed tributary of Cedar Creek [TEX. WATER CODE § 26.121(a)(1)].

2. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit No. TXRNEZ235 expired on August 16, 2016, 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:

By February 27, 2023, the Respondent submitted a No Exposure Certification to obtain authorization under TPDES Multi-Sector General Permit No. TXRNECB57.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease the unauthorized discharge of boiler blowdown wastewater; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Arti Patel, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2514; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Eric Atkinson, Chief Executive Officer, ATKINSON CANDY COMPANY, 1608 West Frank Avenue, Lufkin, Texas 75904

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	12-Dec-2022	Screening	14-Dec-2022	EPA Due	
	PCW	14-Jun-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	ATKINSON CANDY COMPANY				
Reg. Ent. Ref. No.	RN100598929				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	63461	No. of Violations	2
Docket No.	2023-0030-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Arti Patel
		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	\$66,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$6,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$737	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$4,900	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$60,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$60,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$60,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$12,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$48,000
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Screening Date	14-Dec-2022	Docket No.	2023-0030-WQ-E	PCW
Respondent	ATKINSON CANDY COMPANY			Policy Revision 5 (January 28, 2021)
Case ID No.	63461			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN100598929			
Media	Water Quality			
Enf. Coordinator	Arti Patel			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 14-Dec-2022 Respondent ATKINSON CANDY COMPANY Case ID No. 63461 Reg. Ent. Reference No. RN100598929 Media Water Quality Enf. Coordinator Arti Patel	Docket No. 2023-0030-WQ-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	1		
Rule Cite(s)		Tex. Water Code § 26.121(a)(1)	
Violation Description	Failed to prevent an unauthorized discharge of industrial process wastewater into or adjacent to any water in the state. Specifically, boiler blowdown wastewater was being discharged into a stormwater culvert that drained into an unnamed tributary of Cedar Creek.		
Base Penalty			\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			x	
	Potential				
				Percent	15.0%

>> 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 do not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$21,250
\$3,750	

Violation Events

Number of Violation Events	1	72	Number of violation days
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	daily					
	weekly					
	monthly					
	quarterly	x				
	semiannual					
	annual					
	single event					

Violation Base Penalty	\$3,750
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One quarterly event is recommended from the initial date of the investigation (October 3, 2022) to the date of screening (December 14, 2022).	
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Good Faith Efforts to Comply

	0.0%	
	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		\$3,750

Economic Benefit (EB) for this violation

Estimated EB Amount	\$706
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Statutory Limit Test

Violation Final Penalty Total	\$3,750
This violation Final Assessed Penalty (adjusted for limits)	
\$3,750	

Economic Benefit Worksheet

Respondent ATKINSON CANDY COMPANY
Case ID No. 63461
Reg. Ent. Reference No. RN100598929
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	\$4,800	3-Oct-2022	7-Nov-2024	2.10	\$34	\$672	\$706
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

Estimated Engineering/Construction cost to cease the unauthorized discharge of boiler-blow down wastewater. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,800

TOTAL

\$706

Screening Date 14-Dec-2022 Respondent ATKINSON CANDY COMPANY Case ID No. 63461 Reg. Ent. Reference No. RN100598929 Media Water Quality Enf. Coordinator Arti Patel	Docket No. 2023-0030-WQ-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2		
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. TXRNEZ235 expired on August 16, 2016, and the Respondent continued to operate.		

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input style="width: 50px;" type="text" value="0.0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		
					Percent <input style="width: 50px;" type="text" value="10.0%"/>

Matrix Notes	100% of the rule requirements were not met.
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Adjustment	\$22,500
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	\$2,500
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Violation Events

Number of Violation Events <input style="width: 50px;" type="text" value="25"/>	<input style="width: 50px;" type="text" value="2221"/>	Number of violation days
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	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
Violation Base Penalty <input style="width: 100px;" type="text" value="\$62,500"/>			

Twenty-five quarterly events are recommended from the permit application grace period end date (November 14, 2016) to the screening date (December 14, 2022).

Good Faith Efforts to Comply

10.0%	
	Reduction <input style="width: 100px;" type="text" value="\$6,250"/>

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text" value="x"/>	
N/A	<input type="text"/>	<input type="text"/>	
Notes	The Respondent achieved compliance on February 27, 2023.		

Violation Subtotal	\$56,250
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Economic Benefit (EB) for this violation

Estimated EB Amount <input style="width: 100px;" type="text" value="\$31"/>	Statutory Limit Test
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Violation Final Penalty Total	\$56,250
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This violation Final Assessed Penalty (adjusted for limits)	\$56,250
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Economic Benefit Worksheet

Respondent ATKINSON CANDY COMPANY
Case ID No. 63461
Reg. Ent. Reference No. RN100598929
Media Water Quality
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	\$100	14-Nov-2016	27-Feb-2023	6.29	\$31	n/a	\$31
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual Permit Costs to submit a No Exposure Certification to obtain authorization to discharge stormwater. The Date Required is the end of the permit renewal grace period date. 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

\$100

TOTAL

\$31



Compliance History Report

Compliance History Report for CN600308704, RN100598929, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN600308704, ATKINSON CANDY COMPANY	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN100598929, ATKINSON CANDY	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	2	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	1608 West Frank Ave, Lufkin, Angelina County, Texas 75904-3109		
TCEQ Region:	REGION 10 - BEAUMONT		
ID Number(s):			
STORMWATER PERMIT	TXRNECB57		
Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year: 2023	Rating Date: 09/01/2023
Date Compliance History Report Prepared:	April 05, 2024		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	April 05, 2019 to April 05, 2024		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Arti Patel	Phone:	(512) 239-2514

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.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ATKINSON CANDY COMPANY
RN100598929

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2023-0030-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 ATKINSON CANDY 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 candy manufacturing company located at 1608 West Frank Avenue in Lufkin, Angelina 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 \$60,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$8,000 of the penalty and \$12,000 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$40,000 of the undeferred penalty shall be paid in five monthly payments of \$8,000 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply

with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

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 February 27, 2023, the Respondent submitted a No Exposure Certification to obtain authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit No. TXRNECB57.

II. ALLEGATIONS

During an investigation at the Facility conducted from October 3, 2022 through October 19, 2022, an investigator documented that the Respondent:

1. Failed to prevent an unauthorized discharge of industrial process wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1). Specifically, boiler blowdown wastewater was being discharged into a stormwater culvert that drained into an unnamed tributary of Cedar Creek.
2. 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 TPDES Multi-Sector General Permit No. TXRNEZ235 expired on August 16, 2016, 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: ATKINSON CANDY COMPANY, Docket No. 2023-0030-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 undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease the unauthorized discharge of boiler blowdown wastewater.
 - 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 No. 2.a. 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

9/26/2024

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the 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

Name (Printed or typed)

Title

Eric ATKINSON

Authorized Representative of
ATKINSON CANDY COMPANY

☐ 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.