Executive Summary - Enforcement Matter - Case No. 64140 EGGEMEYER LAND CLEARING, LLC RN106324650 Docket No. 2023-0837-MLM-E

Order Type: 1660 Agreed Order **Findings Order Justification:** N/A Media: MLM - AIR, EAQ, MSW **Small Business:** Yes Location(s) Where Violation(s) Occurred: Eggmeyer Land Clearing Brush Recycling Facility, 333 North Solms Road, New Braunfels, Comal County **Type of Operation:** Municipal solid waste recycling facility **Other Significant Matters:** Additional Pending Enforcement Actions: No Past-Due Penalties: No Other: N/A Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda. Texas Register Publication Date: March 15, 2024 Comments Received: No

Penalty Information

Total Penalty Assessed: \$24,687 Amount Deferred for Expedited Settlement: \$4,937 Total Paid to General Revenue: \$19,750 Total Due to General Revenue: \$0 Payment Plan: N/A Compliance History Classifications: Person/CN - Satisfactory Site/RN - Satisfactory Major Source: No Statutory Limit Adjustment: N/A Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): October 11, 2022 and October 14, 2022 **Complaint Information:** Alleged the facility has had many fires. Runoff was flowing into Dry Comal Creek and thence into the Comal River. There was also a large mulch fire.

Date(s) of Investigation: October 11, 2022 through October 27, 2022 **Date(s) of NOE(s):** May 15, 2023

Executive Summary – Enforcement Matter – Case No. 64140 EGGEMEYER LAND CLEARING, LLC RN106324650 Docket No. 2023-0837-MLM-E

Violation Information

1. Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Transition Zone. Specifically, the Respondent installed an above ground storage tank ("AST") storing 515 gallons of diesel prior to obtaining approval of an Edwards Aquifer AST System Facility Plan [30 TEX. ADMIN. CODE § 213.4(a)(1)].

2. Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority. Specifically, the Respondent did not provide documentation that the fire prevention and suppression plan was made available to the local fire department and the fire prevention and suppression plan submitted on August 10, 2012 was not adequate due to the local fire department responding to several mulch fires at the Site throughout the years that the Site has been in operation [30 Tex. ADMIN. CODE § 328.5(h)].

3. Failed to prevent nuisance smoke conditions and failed to prevent the discharge of emissions in such quantities which have a tendency to cause a traffic hazard or an interference with normal road use. Specifically, TCEQ staff documented that the fire at the Site resulted in the closure of North Solms Road on October 11, 2022 and the smoke from the fire at the Site drifted across North Solms Road on October 12, 2022 and caused a traffic hazard [30 TEX. ADMIN. CODE §§ 101.4 and 101.5 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. On October 12, 2022, placed traffic hazard signs on North Solms Road;

b. By October 27, 2022, extinguished the fire at the Site;

c. By November 1, 2022, installed a three-inch water line around the perimeter of the property to ensure that smoke from the Site does not cause nuisance smoke conditions that impact off-site receptors and a traffic hazard due to the same or similar causes as the incidents that occurred on October 11, 2022 and October 12, 2022;

d. By May 26, 2023, prepared a fire prevention and suppression plan and made it available to the Comal County Fire Marshall's Office; and

e. By February 15, 2023, emptied and replaced the 515-gallon AST with a 250-gallon AST.

Executive Summary – Enforcement Matter – Case No. 64140 EGGEMEYER LAND CLEARING, LLC RN106324650 Docket No. 2023-0837-MLM-E

Technical Requirements:

N/A

Contact Information

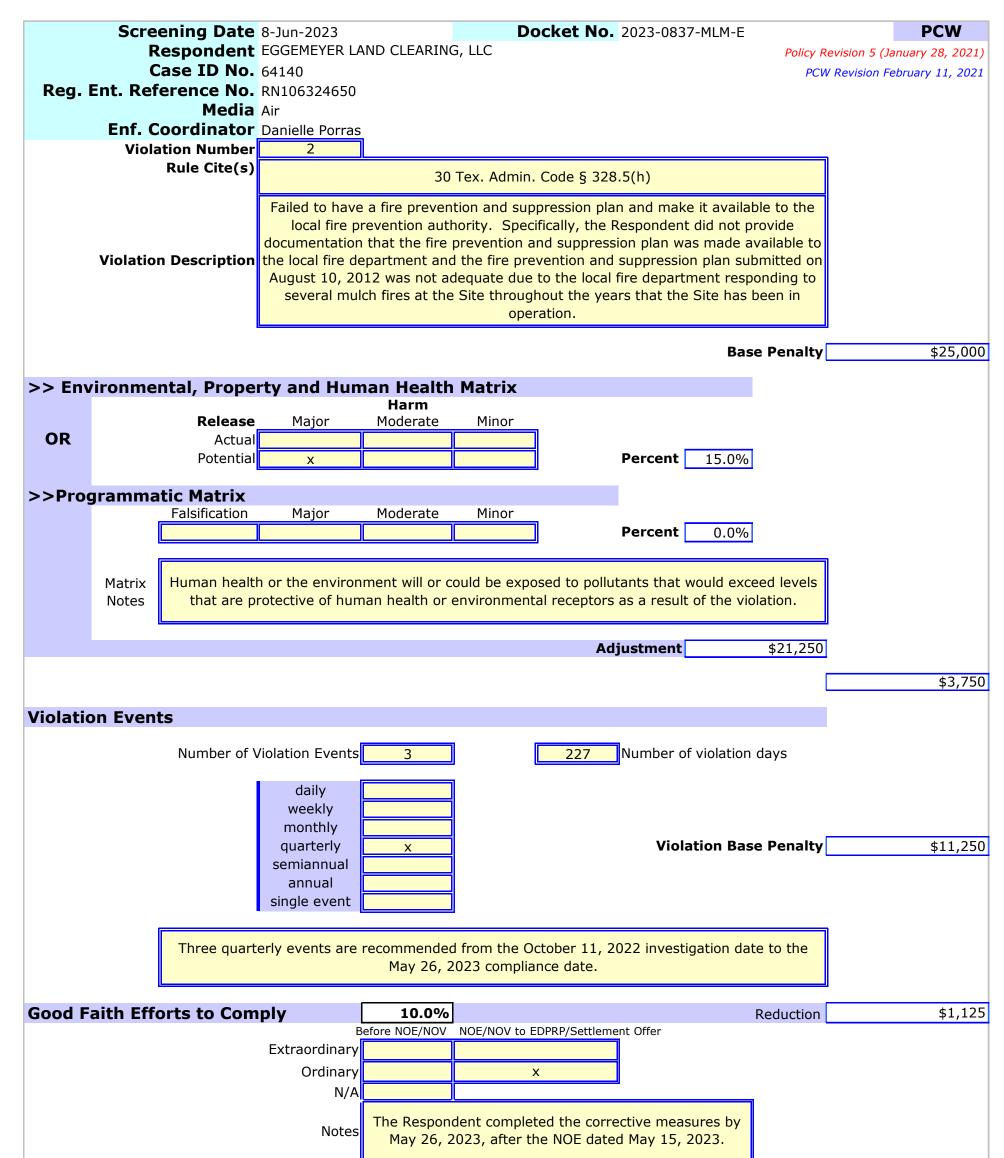
TCEQ Attorney: N/A TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548 Respondent: Steven Eggemeyer, President, EGGEMEYER LAND CLEARING, LLC, 329 County Road 395, Yoakum, Texas 77995 Respondent's Attorney: N/A

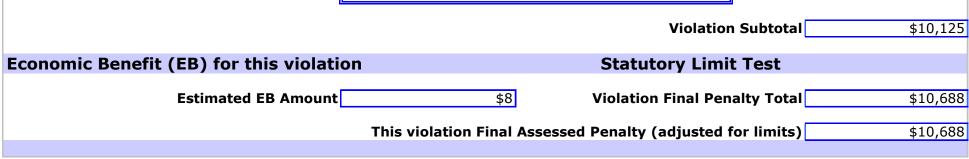
No COMMISSION	Penalty Calculation Worksheet (PCW) Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021							
DATES		31-May-2023		1 2022			7	
	PCW	20-Jan-2024	Screening 8-	Jun-2023	EPA Due			
RESPO	NDENT/FACILI							
Red	Respondent g. Ent. Ref. No.		ND CLEARING, LLC					
	ty/Site Region				Major/M	linor Source	Minor	
CASE T	NFORMATION							
	f./Case ID No.	64140			No. d	of Violations	3	
		2023-0837-MLM	-E		-	Order Type		
мес	lia Program(s) Multi-Media		and Municipal Sol	id Waste	Government Enf.		Danielle Porras	3
			·				Enforcement T	
Adı	min. Penalty \$	Limit Minimum		imum	\$25,000			
			Penalty (Calculat	ion Sectio	n		
ΤΟΤΑ	L BASE PENA	LTY (Sum of	violation bas	e penalti	es)		Subtotal 1	\$28,750
ADJU	STMENTS (+	/-) TO SUBT	OTAL 1					
	Subtotals 2-7 are ob	stained by multiplying	the Total Base Penalty					A1 407
	Compliance Hi	story		5.0%	Adjustment	Subto	tals 2, 3, & 7	\$1,437
	Notes	Enhan	cement for one NO	V with same	e/similar violatio	ons.		
]	
	Culpability	No		0.0%	Enhancement		Subtotal 4	\$0
	Notes	The R	espondent does no	ot meet the	culpability crite	ria.		
							1	
	Good Faith Eff	ort to Comply T	otal Adjustment	5			Subtotal 5	-\$5,500
	Economic Ben	efit Total EB Amounts	\$122		Enhancement* at the Total EB \$ A	mount	Subtotal 6	\$0
	Estimated	Cost of Compliance	\$17,250	capped		mount		
	OF SUBTOTA	I C 1_7				-	inal Subtotal	\$24,687
3011	JI SUBIUTA	L3 I-7				F	illai Subtotai	φ 2 1 ,007
			AY REQUIRE		0.0%		Adjustment	\$0
Reduces of	or enhances the Final	Subtotal by the indi	cated percentage.				1	
	Notes							
								+24 607
Final Penalty Amount \$24,687								
STATI	JTORY LIMIT	ADJUSTME	NT			Final Asse	ssed Penalty	\$24,687
DEEE				ľ				+4 007
DEFER Reduces t	KKAL the Final Assessed Pe	nalty by the indicate	d percentage.		20.0%	Reduction	Adjustment	-\$4,937
	Notes		Deferral offered for	or expedited	settlement.			
							J	
PAYA	BLE PENALT	Y						\$19,750

	Res Cas	Ing Date8-Jun-2023Docket No.2023-0837-MLM-ESpondentEGGEMEYER LAND CLEARING, LLCSe ID No.64140Sence No.RN106324650MediaAir		PCW sion 5 (January 28, 2021 evision February 11, 202	
	Enf. Coc	ordinator Danielle Porras			
~~	Compliance Hist	Compliance History Worksheet ory 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	0	0%	
		Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%	
	Orders	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	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%	
	and Consent Decrees	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	0	0%		
	Emissions	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)			
	Addits	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%	
		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%	
	Other	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 Pere	centage (Sul	ototal 2) 5%	
>>	Repeat Violator	(Subtotal 3)			
	No	Adjustment Pere	centage (Sul	ototal 3) 0%	
>>		ory Person Classification (Subtotal 7)			
	Satisfactory		centage (Sul	ototal 7) 0%	
>>	Compliance Histo	ory Summary			
	Compliance History Notes	Enhancement for one NOV with same/similar violations.			
		Total Compliance History Adjustment Percentage (S	Subtotals 2,	3, & 7) 5%	
>>	Final Compliance	History Adjustment Final Adjustment Percenta	age *capped	at 100% 5%	

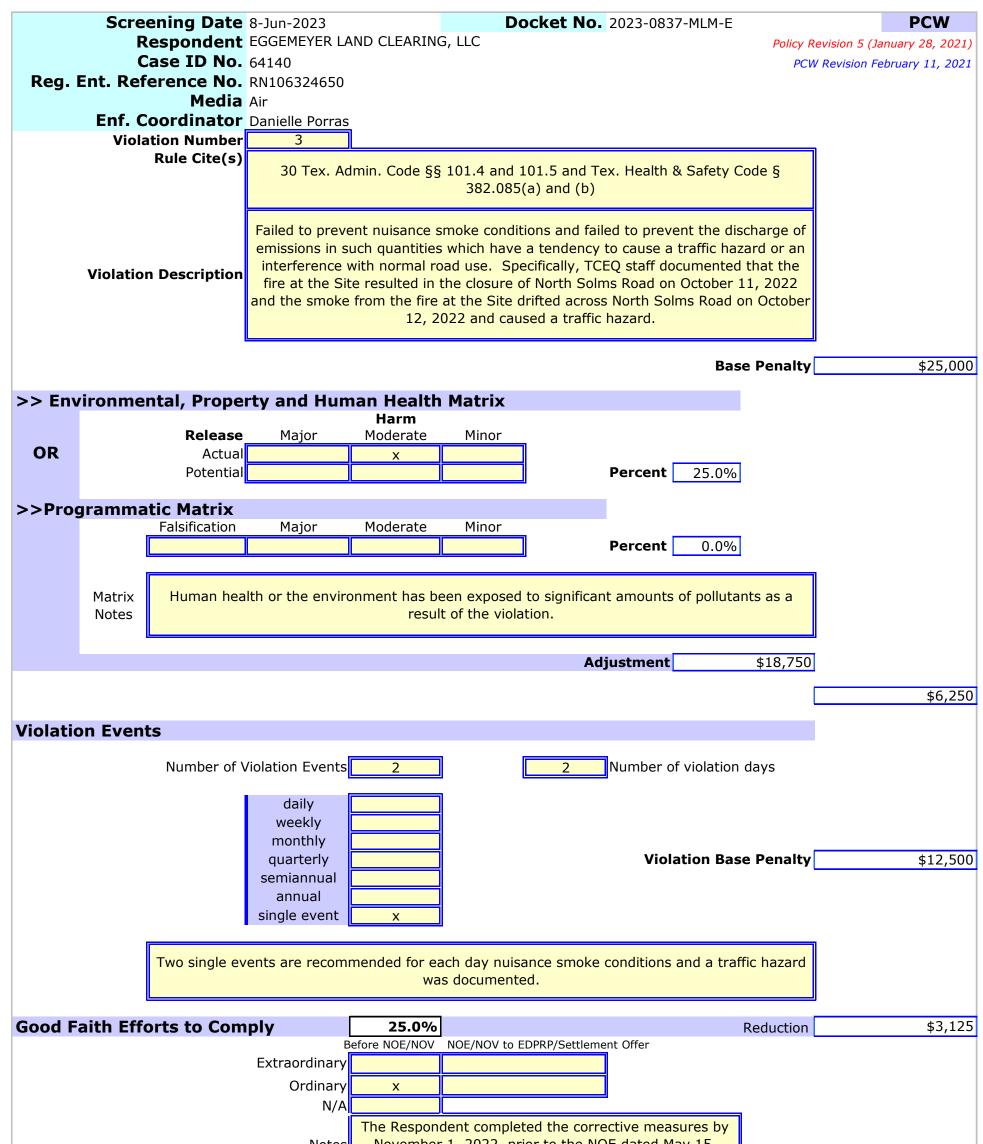
>> Environmental, Property and Human Health Matrix Harm Moderate Major Moderate Minor Potential Potenti		Scree	ening Date	8-Jun-2023		Do	cket No. 2023-08	37-MLM-E		PCW	
Reg. Ent. Reference No. RUI05234500 Media Ar Enf. Coordinator Daniele Parase Violation Number 1 Rule Cite(s) Specificity in Respondent insulation and approval of an Edwards Aquifer Protection Plan prior to commercing a regulated activity over the Edwards Aquifer Protection Plan prior to commercing a regulated activity over the Edwards Aquifer Protection Plan prior to commercing a regulated activity over the Edwards Aquifer Protection Plan prior to commercing a regulated activity over the Edwards Aquifer Transition Zone. Specificity in Respondent insulation activity Plan. >> Environmental, Property and Human Health Matrix Marine Actual Programmatic Major Percent OR Actual Programmatic Major Matrix Marine Individual Matrix Metrix Individual Matrix Metrix Individual Matrix Matrix Individual Matrix Individual Violation Events Violation Events Violation Events Violation Events Individual Market Molonov Mocrove toponyositement Over <t< th=""><th></th><th></th><th></th><th></th><th>ND CLEARIN</th><th>G, LLC</th><th></th><th>Policy</th><th>Revision 5 (J</th><th>anuary 28, 2021)</th></t<>					ND CLEARIN	G, LLC		Policy	Revision 5 (J	anuary 28, 2021)	
Media Ar Herit Coordinator Danielle Porres Violation Number 1 30 Tex. Admin. Code § 213.4(a)(1) Rule Cite(a) 30 Tex. Admin. Code § 213.4(a)(1) Violation Description Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commendia regulated activity over the Edwards Aquifer Institution Zone. Specifically, the Respondent installed an above ground storage tank ("NST") storing 515 gailone of desciption to obtaining approval of an Edwards Aquifer AST System Facility Plan. >> Environmental, Property and Human Health Matrix Harm Harm OR Actual Moderate Actual Moderate Minor Percent 0.0% >> Programmatic Matrix Fail Tasking of the rule requirements were not met. 52,500 Violation Events 2 100% of the rule requirements were not met. Number of Violation Events 2 127 Violation Base Penalty 55.000 Single event 51,250 Violation Subotal 51,250								P	CW Revision F	ebruary 11, 2021	
Enf. Coordinator Danciel Pores. Violation Number 1 Rule Cite(s) S0 Tex. Admin. Code § 213.4(a)(1) Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Transition Zone. Specifically, the Respondent insulated an above ground storage tank (YSTT) storing 515 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior to obtaining approval of an Edwards Aquifer Astrong S15 gallons of dises prior Minor Percent 0.0% >> Programmatic Matrix Palsification X Percent 10.0% Mitrix 100% of the rule requirements were not met. Notest 100% of the rule requirements were not met. Will autor of Violation Events 1227 Number of Violation Events 1227 Social Faith Efforts to Comply Keenter Violation Base Penalty \$5,000 Social Faith Efforts to Comply	Reg. Er	nt. Refe									
Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commending aroutadd activity over the Edwards Aquifer Transition. Zone. Specifically, the Respondent Installed an above ground storage tank (*AST") storing S15 gallons of disced prior to obtaining approval of an Edwards Aquifer AST System Pacility Plan. DR Release Major Violation Mean Hearth Percent 0.0% >> Environmental, Property and Human Health Matrix Harm Percent 0.0% Violation Major Moderate Minor Percent 0.0% >> Programmatic Matrix Harm Percent 0.0% \$22,500 Violation Events 100% of the rule requirements were not met. 422,500 Violation Events 2 127 Number of violation days Violation Events 2 127 Number of viola											
Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commercing a regulated activity over the Edwards Aquifer Transition Zone. Specifically. The Respondent Installed an above ground storage tarks (XST)) storing 515 gallons of dised prior to obtaining approval of an Edwards Aquifer Activity Plan. Base Penalty \$225,000 >> Environmental, Property and Human Health Matrix Harm Base Penalty \$225,000 OR Actual Percent 0.0% >> Programmatic Matrix Percent 0.0% Potential Noderate Minor Patafrication X Percent 10.0% Violation Events 100% of the rule requirements were not met. 922,500 Violation Events 2 127 Number of violation days diality											
So (EX. Allinit. Cubic 9 213.4(e)(1) Failed to abtain approval of an Edwards Aquifer Protection Plan prior to commendia regulated addrifty over the Edwards Aquifer Transition Zone. Specifically, the Respondent installed an above ground storage tank (*AST*) storing 515 gallons of desel prior to behaving approval of an Edwards Aquifer Transition Zone. Specifically, the Respondent installed an above ground storage tank (*AST*) Base Penalty S25,000 >> Environmental, Property and Human Health Matrix Marr Percent Adjustment S22,500 Violation Events Adjustment S22,500 Violation Events Violation Events Violation Events Violation Base Penalty S22,500 Violation Base Penalty <td cols<="" th=""><th></th><th>VIOIA</th><th></th><th></th><th></th><th></th><th></th><th></th><th>٦</th><th></th></td>	<th></th> <th>VIOIA</th> <th></th> <th></th> <th></th> <th></th> <th></th> <th></th> <th>٦</th> <th></th>		VIOIA							٦	
Violation Description commencing a regulated activity over the Edwards Aquifer Transition Zone. Specifically, the Respondent Insolated an above ground Storage ground Storage Squark (*AST) storing 515 gallons of diesel prior to obtaining approval of an Edwards Aquifer AST System Facility Plan. Base Penalty \$25,000 >> Environmental, Property and Human Health Matrix Harm OR Actual Percent 0.0% Actual Percent 0.0% Actual Percent 0.0% >>Programmatic Matrix Percent 0.0% Adjustment \$22,500 Violation Events Violation Events Violation Events Number of Violation Events Reduction days Violation Base Penalty \$5,000 Storage and any weekly Violation Base Penalty \$5,000 Violation Base Penalty \$5,000 Violation Base Penalty \$5,000 Storage and any weekly Notation Storage and any weekly Storage and any weekly			Rule Cite(s)		30 T	ex. Admin. C	Code § 213.4(a)(1)				
Violation Description commencing a regulated activity over the Edwards Aquifer Transition Zone. Specifically, the Respondent Insolated an above ground Storage ground Storage Squark (*AST) storing 515 gallons of diesel prior to obtaining approval of an Edwards Aquifer AST System Facility Plan. Base Penalty \$25,000 >> Environmental, Property and Human Health Matrix Harm OR Actual Percent 0.0% Actual Percent 0.0% Actual Percent 0.0% >>Programmatic Matrix Percent 0.0% Adjustment \$22,500 Violation Events Violation Events Violation Events Number of Violation Events Reduction days Violation Base Penalty \$5,000 Storage and any weekly Violation Base Penalty \$5,000 Violation Base Penalty \$5,000 Violation Base Penalty \$5,000 Storage and any weekly Notation Storage and any weekly Storage and any weekly											
Violation Description commencing a regulated activity over the Edwards Aquifer Transition Zone. Specifically, the Respondent Insolated an above ground Storage ground Storage Squark (*AST) storing 515 gallons of diesel prior to obtaining approval of an Edwards Aquifer AST System Facility Plan. Base Penalty \$25,000 >> Environmental, Property and Human Health Matrix Harm OR Actual Percent 0.0% Actual Percent 0.0% Actual Percent 0.0% >>Programmatic Matrix Percent 0.0% Adjustment \$22,500 Violation Events Violation Events Violation Events Number of Violation Events Reduction days Violation Base Penalty \$5,000 Storage and any weekly Violation Base Penalty \$5,000 Violation Base Penalty \$5,000 Violation Base Penalty \$5,000 Storage and any weekly Notation Storage and any weekly Storage and any weekly				Failed to	obtain approv	val of an Edv	vards Aquifer Protect	ion Plan prior to			
storing 515 gallons of diesel prior to obtaining approval of an Edwards Aquifer AST System Facility Plan. Base Penalty \$25,000 >> Environmental, Property and Human Health Matrix Harm Harm Harm Harm OR Actual Horr Percent 0.0% >> Programmatic Matrix Falsification Moderate Minor Falsification Major Moderate Minor Adjustment \$22,500 \$2,500 Violation Events 100% of the rule requirements were not met. \$22,500 Violation Events 2 127 Number of violation days weekly weekly semanual \$5,000 Two quarterly events are recommended from the October 11, 2022 Investigation date to the rebruary 15, 2023 compliance date. \$1,250 Good Faith Efforts to Comply 25.0% Reduction \$1,250 Violation Subtotal \$1,250 \$2,000 \$2,000 Violation Subtotal \$1,250 \$2,000 \$2,000 Matrix Violation Base Penalty \$5,000 \$1,250 Evenandary \$2,020 Reduction \$1,250 Violation Base Penalty \$2,500 \$2				commencing	g a regulated	activity ove	r the Edwards Aquife	er Transition Zone.			
AST System Facility Plan. Base Penaity \$25,000 >> Environmental, Property and Human Health Matrix Ham OR Release Major Actual Peternia Percent 0.0% >> Programmatic Matrix Falsification Major Moderate Minor Falsification Major Moderate Minor Percent 0.0% >> Programmatic Matrix Falsification Major Moderate Minor Percent 10% Matrix Intervents Intervents Percent 10.0% 52,500 Violation Events Intervents Intervents S2,500 S2,500 Violation Events Intervents Intervents S2,500 Violation Events Intervents Intervents S5,000 Intervent Intervents S5,000 S5,000 Intervent Intervent S5,000 S1,250 Event Intervent Intervent S5,000 Intervent Intervent Intervent S5,000 Intervent Intervent Intervent S5,	V	/iolatior	n Description								
Base Penalty \$25,000 >> Environmental, Property and Human Health Matrix Ham OR Actual Actual Moderate Matrix Percent D0% Percent Matrix Percent Segmentic Matrix Percent Falsification Major Matrix 100% of the rule requirements were not met. Adjustment \$22,500 Violation Events \$2,500 Violation Events \$2,500 Violation Events \$2,500 Two quarterly events are recommended from the October 11, 2022 Investigation days \$5,000 Sood Faith Efforts to Comply 25.0% Extraordinay Reduction \$1,250 Violation Subtotal \$1,250 Violation Subtotal \$1,250 Violation Subtotal \$1,250 Ectraordinay Reduction \$1,250 Violation Subtotal \$1,250 Ectraordinay Yood Environment Yood Subtotal Violation Subtotal \$1,250 Ectraordinay Yood Subtotal \$3,750 Violati				Storing 515 g				an Luwarus Aquirer			
>> Environmental, Property and Human Health Matrix Harm Moderate Major Moderate Minor Potential Potenti						,	,				
>> Environmental, Property and Human Health Matrix Harm Moderate Potential Potentia								Base Penalty	v l	\$25,000	
OR Release Actual Potential Major Moderate Potential Minor Moderate Percent 0.0% >>Programmatic Matrix Falsification Major Moderate Major Minor Percent 0.0% >>Programmatic Matrix Notes 100% of the rule requirements were not met. 10.0% Matrix Notes 100% of the rule requirements were not met. 4djustment \$22,500 Violation Events 2 127 Number of violation days \$2,500 Violation Events 2 127 Number of violation days \$5,000 weekly monthly weekly monthly semianual single event 122 Violation Base Penalty \$5,000 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. \$1,250 Sood Faith Efforts to Comply 25.0% Reduction \$1,250 Violation Reseption to the Note of Efforcement ('NOE') dated May 15, 2023. Reduction \$1,250 Violation Subtotal \$3,750 \$2,750 Economic Benefit (EB) for this violation Statutory Limit Test \$4,000								base i churc		<i>\$23,000</i>	
OR Release Major Moderate Minor Potential Percent 0.0% >>Programmatic Matrix Falsification Major Moderate Minor Falsification x Percent 10.0% Matrix 100% of the rule requirements were not met. \$22,500 Violation Events \$22,500 Violation Events \$2,500 Violation Events \$5,000 aminanual single event \$5,000 Single event \$2,023 compliance date. \$1,250 Violation Base Penalty \$5,000 Not the Violation Base Penalty \$1,250 Violation \$1,250 Violation \$1,250 Violation \$1,250 Violation \$1,250 Violation \$1,250 Violation \$1,250 Violation <t< th=""><th>>> Envir</th><th>onmer</th><th>ntal, Prope</th><th>rty and Hum</th><th></th><th>Matrix</th><th></th><th></th><th></th><th></th></t<>	>> Envir	onmer	ntal, Prope	rty and Hum		Matrix					
OR Actual Percent 0.0% >>Programmatic Matrix Percent 10.0% Matrix 100% of the rule requirements were not met. Matrix 100% of the rule requirements were not met. Matrix 100% of the rule requirements were not met. Violation Events \$22,500 Violation Events 2 127 Number of Violation Events 2 127 Violation Base Penalty \$5,000 annual annual \$5,000 semianual annual \$5,000 refere IRC/NOV NOT/NOV to EDRR/Settlement Offer \$5,000 Petruary 15, 2023 compliance date. \$1,250 Redout IRC/NOV NOT/NOV to EDRR/Settlement Offer \$1,250 Petruary 15, 2023 compliance date. \$1,250 Notes February 15, 2023 compliance date. Seton IRC/NOV NOT/NOV to EDRR/Settlement Offer \$1,250 Notes February 15, 2023, prior the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total			Release	Maior		Minor					
Potential Percent 0.0% >>Programmatic Matrix Falsification Major Moderate Minor Palsification x Percent 10.0% Matrix 100% of the rule requirements were not met. \$22,500 Violation Events \$2,500 Violation Events 2 127 Number of Violation Events 2 127 Weekly weekly \$5,000 annual annual \$5,000 single event Statutory Limit Test Good Paith Efforts to Comply 25.0% Reduction Violation Subtotal \$1,250 Matrix Notes February 15, 2023 compliance date. Violation Subtotal \$1,250 Bafore NOP/NOV to EDPEP/Sattement Offer \$1,250 Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000	OR				Hoderate		1				
Faisification Major Moderate Minor Percent 10.0% Matrix 100% of the rule requirements were not met. Adjustment \$22,500 Adjustment \$22,500 \$2,500 Violation Events 2 127 Number of violation days daily			Potential				Percent	0.0%			
Faisification Major Moderate Minor Percent 10.0% Matrix 100% of the rule requirements were not met. Adjustment \$22,500 Adjustment \$22,500 \$2,500 Violation Events 2 127 Number of violation days daily							-				
x Percent 10.0% Matrix 100% of the rule requirements were not met. Adjustment \$22,500 \$2,500 \$2,500 Violation Events \$2,500 Mumber of Violation Events 2 Violation Base Penalty \$5,000 gainy x Violation Base Penalty \$5,000 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Brow NOE/NOV to EDMR/Settlement Offer Extraordinary x Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total	>>Progr	ammat		Major	Moderate	Minor					
Matrix Notes 100% of the rule requirements were not met. Adjustment \$22,500 S2,500 \$2,500 Violation Events 2 Number of Violation Events 2 daily weekly monthly quarterly semiannual single event Violation Base Penalty Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Extraordinary Kather Straordinary X NA The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total		[Taisincation		Moderate	мпо	Percent	10.0%			
Notes 100% of the fue requirements were not met. Adjustment \$22,500 \$2,500 \$2,500 Violation Events 2 Number of Violation Events 2 daily							4		_		
Notes 100% of the fue requirements were not met. Adjustment \$22,500 \$2,500 \$2,500 Violation Events 2 Number of Violation Events 2 daily											
Adjustment \$22,500 Violation Events \$2,500 Number of Violation Events 2 127 Number of violation days daily weekly monthiy Xiolation Base Penalty semiannual single event single event S5,000 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Defore NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary NA NA The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Statutory Limit Test				100	% of the rule	requiremen	ts were not met.				
Yiolation Events \$2,500 Number of Violation Events 2 daily 127 weekly violation days daily 4 weekly violation Base Penalty semiannual annual single event 55,000 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Everaordinary Reduction Violation ary \$1,250 Everaordinary Reduction Violation Subtotal \$1,250 February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87		Notes									
Yiolation Events \$2,500 Number of Violation Events 2 daily 127 weekly 4 weekly 4 weekly 4 youthing 4 annual 3 semiannual 3 annual 3 single event 1 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Effore NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary NA NA The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000							Adjustment	¢22 500	า		
Violation Events Number of Violation Events 2 127 Number of violation days daily weekly monthily x violation Base Penalty \$5,000 semiannual ingle event Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Reduction \$1,250 Defore NOR/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary Extraordinary x N/A The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test \$4,000							Aujustinen	\$22,30	5		
Number of Violation Events 2 127 Number of violation days daily weekly monthly x wonthly x Violation Base Penalty \$5,000 annual annual annual annual semiannual single event Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Reduction \$1,250 Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer \$1,250 Violation ary X X X N/A The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test \$4,000										\$2,500	
Number of Violation Events 2 127 Number of violation days daily weekly monthly x wonthly x Violation Base Penalty \$5,000 annual annual annual annual semiannual single event Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Reduction \$1,250 Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer \$1,250 Violation ary X X X N/A The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test \$4,000	Violation	Event	·c								
daily weekly monthly quarterly semiannual annual single event Violation Base Penalty \$5,000 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Image: Complete Com	Toración					_					
weekly monthly quarterly semiannual annual single event Violation Base Penalty \$5,000 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer \$2,000 Extraordinary X NA \$3,750 NA Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test \$4,000			Number of V	iolation Events	2		127 Number	of violation days			
weekly monthly quarterly semiannual annual single event Violation Base Penalty \$5,000 Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer \$2,000 Extraordinary X NA \$3,750 NA Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test \$4,000				daily		7					
monthiy x Violation Base Penalty \$5,000 semiannual annual single event single event Image: Single event											
semiannual annual single event						1					
annual single event Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary				quarterly	х	j	Vio	lation Base Penalty	/	\$5,000	
single event											
Two quarterly events are recommended from the October 11, 2022 investigation date to the February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary Image: Complete and the corrective measures by Notes Ordinary x Image: Complete and the corrective measures by Notes The Respondent completed the corrective measures by February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000											
February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary Ordinary x N/A			l	single event		J					
February 15, 2023 compliance date. Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary Ordinary x N/A											
Good Faith Efforts to Comply 25.0% Reduction \$1,250 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer \$1,250 Extraordinary Ordinary X N/A N/A Interstance Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test \$4,000 Estimated EB Amount \$87 Violation Final Penalty Total \$4,000			i wo quarter	ly events are re				stigation date to the			
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary					rebiddiy 15	, 2025 comp					
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Extraordinary	Good Fai	th Effo	orts to Com	nlv	25 በ%			Reduction	1	¢1 250	
Extraordinary Ordinary x Ordinary x N/A N/A The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000							DPRP/Settlement Offer	Reduction		Ψ±,230	
N/A The Respondent completed the corrective measures by Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000				r							
The Respondent completed the corrective measures by February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000				Ordinary	х						
Notes February 15, 2023, prior to the Notice of Enforcement ("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000				N/A							
("NOE") dated May 15, 2023. Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000											
Violation Subtotal \$3,750 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000				Notes	February 15			orcement			
Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$87 Violation Final Penalty Total \$4,000				l							
Estimated EB Amount \$87 Violation Final Penalty Total \$4,000								Violation Subtota	I	\$3,750	
Estimated EB Amount \$87 Violation Final Penalty Total \$4,000	Economi	c Bene	fit (EB) for	this violatio	on		Statut	orv Limit Test			
This violation Final Assessed Penalty (adjusted for limits) \$4,000			Estimate	ed EB Amount		\$87	Violation	Final Penalty Tota	1	\$4,000	
					This viola	ation Final A	Assessed Penalty (adjusted for limits)	\$4,000	

Economic Benefit Worksheet							
Respondent	EGGEMEYER L	AND CLEARING,	LLC				
Case ID No.							
Reg. Ent. Reference No.		1					
Media							Years of
Violation No.						Percent Interest	Depreciation
Violation No.	-					5.0	
	Itom Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
These Description		Date Required	Final Date	115	Interest Saveu	COSIS Saveu	EB Amount
Item Description							
Delayed Costs					± 0	+ 0	+0
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0 \$0	\$0 #0	<u>\$0</u> \$0
Other (as needed) Engineering/Construction				0.00	\$0 \$0	<u>\$0</u> \$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)	\$5,000	11-Oct-2022	15-Feb-2023	0.35	\$87	n/a	\$87
Notes for DELAYED costs	Notes for DELAYED costs Estimated cost to empty and replace the 515-gallon AST with a 250-gallon AST. The Date Required is the investigation date and the Final Date is the date of compliance.						
Avoided Costs	ANNU	ALIZE avoided o	osts before en	tering	item (except for	one-time avoide	d 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 #0	<u>\$0</u> \$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$5,000			TOTAL		\$87





Economic Benefit Worksheet							
Respondent	EGGEMEYER L	AND CLEARING, I	LC				
Case ID No.							
Reg. Ent. Reference No.)					
Media							Years of
Violation No.						Percent Interest	Depreciation
	_					5.0	. 15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description		Bute Required					
Item Description							
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)	\$250	11-Oct-2022	26-May-2023	0.62	\$8	n/a	\$8
	Estimated	cost to prepare a	fire prevention	and sup	pression plan and	make it available t	o the Comal
Notes for DELAYED costs			•			e and the Final Dat	
	,		·	complia	-		
Avoided Costs	ANNU	ALIZE avoided c	osts before en			one-time avoide	
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0 \$0	\$0 #0
Inspection/Reporting/Sampling Supplies/Equipment				0.00	\$0 \$0	<u>\$0</u> \$0	<u>\$0</u> \$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	\$0
					· · · · · · · · · · · · · · · · · · ·		ŢŢ
Notes for AVOIDED costs							
Approx Cost of Compliance		47E0			TOTAL		40
Approx. Cost of Compliance		\$250			IUIAL		\$8



Notes	2023.	
	Violation Subtot	al \$9,375
Economic Benefit (EB) for this violation	on Statutory Limit Test	
Estimated EB Amount	\$27 Violation Final Penalty Tot	al\$10,000
	This violation Final Assessed Penalty (adjusted for limits	s) \$10,000

	E	conomic	Benefit	Woi	rksheet		
Respondent Case ID No. Reg. Ent. Reference No.	64140	AND CLEARING, I	LLC				
Media Violation No.	Air					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
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		11.0++ 2022	27.0 + 2022	0.00	\$0	n/a	\$0
Other (as needed) Other (as needed)	<u>\$10,500</u> \$1,500	<u>11-Oct-2022</u> 11-Oct-2022	27-Oct-2022 1-Nov-2022	0.04	<u>\$23</u> \$4	n/a n/a	<u>\$23</u> \$4
Notes for DELAYED costs	(\$10,000), and install a three-inch water line around the perimeter of the property to ensure that smoke from the Site does not cause nuisance smoke conditions that impact off-site receptors and a traffic hazard due to the same or similar causes as the incidents that occurred on October 11, 2022 and October 12, 2022 (\$1,500). The Dates Required are the investigation date and the Final Dates are the dates of compliance.						
Avoided Costs	ANNU	ALIZE avoided c	osts before en	tering	item (except for	one-time avoide	d 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)		<u>JI</u> J		0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

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 CN603114612, RN106324650, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN603114612, EGGEMEYER LAND CLEARING, LLC	Classification: SATISF	ACTORY Rating: 2.80						
Regulated Entity:	RN106324650, EGGEMEYER LAND CLEARING BRUSH RECYCLING FACILITY	Classification: SATISE	FACTORY Rating: 2.80						
Complexity Points:	4	Repeat Violator: NO							
CH Group:	14 - Other								
Location:	333 North Solm Road in New Braunfels,	Comal County, Texas							
TCEQ Region:	REGION 13 - SAN ANTONIO								
ID Number(s): STORMWATER PERMIT TXR0	ID Number(s): STORMWATER PERMIT TXR05FX07 MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 100359								
Compliance History Peri	od: September 01, 2017 to August 31, 2	2022 Rating Year: 2022	Rating Date: 09/01/2022						
Date Compliance History	y Report Prepared: July 03, 2023								
Agency Decision Requiri	ing Compliance History: Enforcem	ent							
Component Period Selec	ted: July 03, 2018 to July 03, 2023								
TCEQ Staff Member to C	ontact for Additional Information	Regarding This Complia	ance History.						
Name: Danielle Porras		Phone: (713) 7	67-3682						
Site and Owner/Oper	ator History:								
1) Has the site been in exister	nce and/or operation for the full five year	compliance period?	YES						
2) Has there been a (known)	change in ownership/operator of the site o	luring the compliance period?	NO						
Components (Multime	edia) for the Site Are Listed in	Sections A - J							
	-								
A. Final Orders, court ju N/A	udgments, and consent decrees:								
B. Criminal convictions									
N/A	•								
C. Chronic excessive er	nissions events:								
N/A									
D. The entroval datas	of investigations (CCEDS Inv. Trad	k No)							
N/A		.K. NO.J.							
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: 03/	24/2023 (1873093)								
Self Report?	NO	Classification: Minor							
Citation:	30 TAC Chapter 332, SubChapter A 33 30 TAC Chapter 332, SubChapter A 33								
	5C THSC Chapter 382 382.085(b)								
Description:	Failure to achieve maximum control of treatment of dust suppression chemica	-							
	failure to utilize dust suppression chemica								

failure to utilize dust suppression system when stock piling ground material.

F. Environmental audits: N/A

- G. Type of environmental management systems (EMSs): $_{\mbox{$N/A$}}$
- H. Voluntary on-site compliance assessment dates: $_{\mbox{N/A}}$
- 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 EGGEMEYER LAND CLEARING, LLC RN106324650 BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2023-0837-MLM-E

<u>s</u> <u>s</u> <u>s</u> <u>s</u> <u>s</u> <u>s</u>

S

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 EGGEMEYER LAND CLEARING, LLC (the "Respondent") under the authority of Tex. HEALTH & SAFETY CODE chs. 361 and 382 and 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 municipal solid waste recycling facility located at 333 North Solms Road in New Braunfels, Comal County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in Tex. HEALTH & SAFETY CODE § 382.003(12). The Site is near or adjacent to water in the state as defined in Tex. WATER CODE § 26.001(5). The Site involves or involved the management of municipal solid waste ("MSW") as defined in Tex. HEALTH & SAFETY CODE ch. 361.
- 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, TEX. HEALTH & SAFETY CODE chs. 361 and 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 \$24,687 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$19,750 of the penalty and \$4,937 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
- 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 the Respondent implemented the following corrective measures at the Site:
 - a. On October 12, 2022, placed traffic hazard signs on North Solms Road;
 - b. By October 27, 2022, extinguished the fire at the Site;
 - c. By November 1, 2022, installed a three-inch water line around the perimeter of the property to ensure that smoke from the Site does not cause nuisance smoke conditions that impact off-site receptors and a traffic hazard due to the same or similar causes as the incidents that occurred on October 11, 2022 and October 12, 2022;
 - d. By May 26, 2023, prepared a fire prevention and suppression plan and made it available to the Comal County Fire Marshall's Office; and
 - e. By February 15, 2023, emptied and replaced the 515-gallon above ground storage tank ("AST") with a 250-gallon AST.

II. ALLEGATIONS

During an investigation at the Site conducted from October 11, 2022 through October 27, 2022, an investigator documented that the Respondent:

- 1. Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Transition Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1). Specifically, the Respondent installed an AST storing 515 gallons of diesel prior to obtaining approval of an Edwards Aquifer AST System Facility Plan.
- 2. Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority, in violation of 30 TEX. ADMIN. CODE § 328.5(h). Specifically, the Respondent did not provide documentation that the fire prevention and suppression plan was made available to the local fire department and the fire prevention and suppression plan submitted on August 10, 2012 was not adequate due to the local fire

department responding to several mulch fires at the Site throughout the years that the Site has been in operation.

3. Failed to prevent nuisance smoke conditions and failed to prevent the discharge of emissions in such quantities which have a tendency to cause a traffic hazard or an interference with normal road use, in violation of 30 Tex. ADMIN. CODE §§ 101.4 and 101.5 and Tex. HEALTH & SAFETY CODE § 382.085(a) and (b). Specifically, TCEQ staff documented that the fire at the Site resulted in the closure of North Solms Road on October 11, 2022 and the smoke from the fire at the Site drifted across North Solms Road on October 12, 2022 and caused a traffic hazard.

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: EGGEMEYER LAND CLEARING, LLC, Docket No. 2023-0837-MLM-E" to:

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

- 2. 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 Site 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.

	ER LAND CLEARING, L NO. 2023-0837-MLM-E	LC	
Page 5		-	
		- i	
			SIGNATURE PA
		;	SIGNATORE FA

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the <u>Commission</u>

Date

For the Executive Director

4/2/2024 Date

GE

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

Den

Name (Printed or typed) Authorized Representative of EGGEMEYER LAND CLEARING, LLC

2/06/24 Date President

□ 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.