

Executive Summary – Enforcement Matter – Case No. 64107

South Texas Frac LLC

RN110481108

Docket No. 2023-0859-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

South Texas Frac - Floresville Facility, located approximately 1.3 miles north of the intersection of Highway 97 and County Road 156, Floresville, Wilson County

Type of Operation:

Frac sand mine, wash plant, and drying plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 26, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,000

Amount Deferred for Expedited Settlement: \$1,800

Total Paid to General Revenue: \$7,200

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): N/A

Complaint Information: N/A

Date(s) of Investigation: March 2, 2023 through March 8, 2023

Date(s) of NOE(s): May 5, 2023

Executive Summary – Enforcement Matter – Case No. 64107

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Docket No. 2023-0859-AIR-E

Violation Information

Failed to water, treat with dust-suppressant chemicals, oil, or pave and clean all permanent in-plant roads and vehicle work areas as necessary to achieve maximum control of dust emissions. Specifically, on March 2, 2023, TCEQ staff did not observe a water truck operating, observed dust emissions from the sand mine, and observed dust emissions from the Site entrances and vehicle work areas around the dry plant. Also, on March 8, 2023, TCEQ staff did not observe a water truck operating and observed dust emissions from the Site entrances and haul roads and from the vehicle work areas at the dry plant and at the mining area [30 TEX. ADMIN. CODE § 106.145(3), Permit by Rule Registration No. 153260, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, water, treat with dust-suppressant chemicals, oil, or pave and clean all permanent in-plant roads and vehicle work areas as necessary to achieve maximum control of dust emissions; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

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

Respondent: Patrick McConnell, Plant Manager, South Texas Frac LLC, P.O. Box 574, Green Lake, Wisconsin 54941

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	8-May-2023			
	PCW	7-Jun-2024	Screening	18-May-2023	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	South Texas Frac LLC				
Reg. Ent. Ref. No.	RN110481108				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	64107	No. of Violations	1		
Docket No.	2023-0859-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Mackenzie Mehlmann		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0%	Adjustment	Subtotals 2, 3, & 7	\$1,500
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Notes	Enhancement for one order containing a denial of liability.			
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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	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,142	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,000
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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		Final Penalty Amount	\$9,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,800
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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	\$7,200
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Screening Date

18-May-2023

Docket No.

2023-0859-AIR-E

PCW

Respondent

South Texas Frac LLC

Case ID No.

64107

Reg. Ent. Reference No.

RN110481108

Media

Air

Enf. Coordinator

Mackenzie Mehlmann

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

Adjustment Percentage (Subtotal 2)20%

>> Repeat Violator (Subtotal 3)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory PerformerAdjustment Percentage (Subtotal 7)0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%20%

Screening Date

18-May-2023

Docket No.

2023-0859-AIR-E

PCW

Respondent

South Texas Frac LLC

Case ID No.

64107

Reg. Ent. Reference No.

RN110481108

Media

Air

Enf. Coordinator

Mackenzie Mehlmann

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 106.145(3), Permit by Rule Registration No. 153260, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to water, treat with dust-suppressant chemicals, oil, or pave and clean all permanent in-plant roads and vehicle work areas as necessary to achieve maximum control of dust emissions. Specifically, on March 2, 2023, TCEQ staff did not observe a water truck operating, observed dust emissions from the sand mine, and observed dust emissions from the Site entrances and vehicle work areas around the dry plant. Also, on March 8, 2023, TCEQ staff did not observe a water truck operating and observed dust emissions from the Site entrances and haul roads and from the vehicle work areas at the dry plant and at the mining area.

Base Penalty

\$25,000

>> Environmental, Property and Human Health Matrix

OR

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 which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment

\$21,250

\$3,750

Violation Events

Number of Violation Events

2

2

Number of violation days

daily

weekly

monthly

quarterly

semiannual

annual

single event

x

Violation Base Penalty

\$7,500

Two single events are recommended for the dust emissions documented on March 2, 2023 and March 8, 2023.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOE/NOV

NOE/NOV to EDP RP/Settlement Offer

Extraordinary

Ordinary

N/A

x

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

\$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount

\$1,142

Violation Final Penalty Total

\$9,000

This violation Final Assessed Penalty (adjusted for limits)

\$9,000

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. South Texas Frac LLC 64107 RN110481108 Air 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	18-Nov-2022	1-Mar-2025	2.28	\$1,142	n/a	\$1,142
Notes for DELAYED costs	Estimated cost to water, treat with dust-suppressant chemicals, oil, or pave and clean all permanent in-plant roads and vehicle work areas as necessary to achieve maximum control of dust emissions. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.						

Avoided Costs

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

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

Approx. Cost of Compliance	\$10,000	TOTAL	\$1,142
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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 CN605562974, RN110481108, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN605562974, South Texas Frac LLC **Classification:** SATISFACTORY **Rating:** 9.80

Regulated Entity: RN110481108, South Texas Frac - Floresville Facility **Classification:** SATISFACTORY **Rating:** 9.80

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 04 - Mining

Location: Approximately 1.3 miles north of the intersection of Highway 97 and County Road 156, Floresville, Wilson County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

TAX RELIEF ID NUMBER 23235 **TAX RELIEF ID NUMBER** 23234

AIR NEW SOURCE PERMITS REGISTRATION 153260

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

Date Compliance History Report Prepared: May 24, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 24, 2019 to May 24, 2024

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

Name: Mackenzie Mehlmann **Phone:** (512) 239-2572

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 07/11/2023 ADMINORDER 2021-1633-AIR-E (1660 Order-Agreed Order With Denial)
- Classification: Moderate
- Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
- 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8(a)
- 5C THSC Chapter 382 382.085(b)
- Rqmt Prov: PBR Registration No. 153260 PERMIT
- Description: Failed to conduct a performance test no later than 180 days after initial startup. Specifically, the initial performance test for the Scrubber Dryer, Emissions Point Number ("EPN") SCRUB, was required to be conducted by March 19, 2020, but was not conducted.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 12	June 23, 2022	(1817474)
Item 15	October 18, 2022	(1841283)
Item 16	October 22, 2022	(1841288)

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
SOUTH TEXAS FRAC LLC
RN110481108

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2023-0859-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding South Texas Frac LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a frac sand mine, wash plant, and drying plant located approximately 1.3 miles north of the intersection of Highway 97 and County Road 156 in Floresville, Wilson County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$9,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,200 of the penalty and \$1,800 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.

II. ALLEGATIONS

During an investigation at the Site conducted from March 2, 2023 through March 8, 2023, an investigator documented that the Respondent failed to water, treat with dust-suppressant chemicals, oil, or pave and clean all permanent in-plant roads and vehicle work areas as necessary to achieve maximum control of dust emissions, in violation of 30 TEX. ADMIN. CODE § 106.145(3), Permit by Rule Registration No. 153260, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, on March 2, 2023, TCEQ staff did not observe a water truck operating, observed dust emissions from the sand mine, and observed dust emissions from the Site entrances and vehicle work areas around the dry plant. Also, on March 8, 2023, TCEQ staff did not observe a water truck operating and observed dust emissions from the Site entrances and haul roads and from the vehicle work areas at the dry plant and at the mining area.

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: South Texas Frac LLC, Docket No. 2023-0859-AIR-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 at the Site:

- a. Within 30 days after the effective date of this Order, water, treat with dust-suppressant chemicals, oil, or pave and clean all permanent in-plant roads and vehicle work areas as necessary to achieve maximum control of dust emissions.
- 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:

Air Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 Site 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



For the Executive Director

7/22/2024

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

6-19-24

Date



Name (Printed or typed)

REG

Title

Authorized Representative of
South Texas Frac LLC

☐ 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.