

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 64904  
Mark Maher, Jr. dba International Union of Operating Engineers Local 450  
RN106279466  
Docket No. 2023-1434-PWS-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions over the prior five year period for the same violations.

**Media:**

PWS

**Small Business:**

Yes

**Location Where Violation Occurred:**

13315 Highway-146 South, Dayton, Liberty County

**Type of Operation:**

public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** August 23, 2024

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,187

**Total Paid to General Revenue:** \$1,187

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

**Compliance History Classifications:**

Person/CN - Not Applicable  
Site/RN - Not Applicable

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date:** N/A

**Dates of Investigation:** August 7, 2023 through August 18, 2023

**Date of NOV:** August 1, 2023

**Date of NOE:** August 18, 2023

**Violation Information**

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1)].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

Came into compliance with the MCL of 0.080 mg/L for TTHM, based on the locational running annual average at the Facility, as of November 2, 2023.

**Technical Requirements:**

None

**Litigation Information**

**Date Petitions Filed:** June 20, 2024

**Date of Service:** June 28, 2024

**Settlement Date:** July 23, 2024

**Contact Information**

**TCEQ Attorneys:** Cynthia Sirois, Litigation Division, (512) 239-3400

Sheldon Wayne, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Margaux Ordoveza, Enforcement Division, (512) 239-1128

**TCEQ Regional Contact:** Westin Massey, Regional Office, (713) 767-3500

**Respondent Contact:** Mark Maher, Jr., P.O. Box 1410, Mont Belvieu, Texas, 77580

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	21-Aug-2023	<b>Screening</b>	5-Oct-2023	<b>EPA Due</b>	30-Sep-2023
	<b>PCW</b>	18-Jun-2024				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Mark Maher Jr. dba International Union of Operating Engineers Local 450
<b>Reg. Ent. Ref. No.</b>	RN106279466
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	CN602986754	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-1434-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Margaux Ordoveza
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,250
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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.

<b>Compliance History</b>	5.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$62
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Notes: Enhancement for one NOV with same/similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$125
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$293  
 Estimated Cost of Compliance: \$5,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,187
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$1,187
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,187
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$1,187
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Screening Date 5-Oct-2023

Docket No. 2023-1434-PWS-E

PCW

Respondent Mark Maher Jr. dba International Union of Operating Engineers Local 450

Policy Revision 5 (January 28, 2021)

Case ID No. CN602986754

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN106279466

Media Public Water Supply

Enf. Coordinator Margaux Ordoveza

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	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) 5%

#### >> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 5%

Screening Date 5-Oct-2023

Docket No. 2023-1434-PWS-E

PCW

Respondent Mark Maher Jr. dba International Union of Operating Engineers Local 450

Policy Revision 5 (January 28, 2021)

Case ID No. CN602986754

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN106279466

Media Public Water Supply

Enf. Coordinator Margaux Ordoveza

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentration of TTHM for Stage 2 Disinfection Byproducts ("DBP2") at Site 1 were 0.086 mg/L for the fourth quarter of 2022, 0.085 mg/L for the first quarter of 2023, and 0.082 mg/L for the second quarter of 2023.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.

Adjustment \$3,750

\$1,250

Violation Events

Number of Violation Events 1

272 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,250

One annual event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$125

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		

Notes

The Respondent achieved compliance on November 2, 2023.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$293

Violation Final Penalty Total \$1,188

This violation Final Assessed Penalty (adjusted for limits) \$1,188

# Economic Benefit Worksheet

**Respondent** Mark Maher Jr. dba International Union of Operating Engineers Local 450  
**Case ID No.** CN602986754  
**Reg. Ent. Reference No.** RN106279466  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Dec-2022	2-Nov-2023	0.84	\$14	\$279	\$293
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated cost to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM, calculated from the last day of the first quarter of noncompliance to the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$5,000

**TOTAL** \$293



# Compliance History Report

Compliance History Report for CN602986754, RN106279466, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

<b>Customer, Respondent, or Owner/Operator:</b>	CN602986754, Mark Maher Jr.	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Regulated Entity:</b>	RN106279466, IUOE TRAINING FACILITY	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	13315 HIGHWAY 146 SOUTH, DAYTON, LIBERTY COUNTY, TEXAS		
<b>TCEQ Region:</b>	REGION 12 - HOUSTON		
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1460173		

<b>Compliance History Period:</b>	September 01, 2018 to August 31, 2023	<b>Rating Year:</b>	2023	<b>Rating Date:</b>	09/01/2023
<b>Date Compliance History Report Prepared:</b>	June 18, 2024				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	June 18, 2019 to June 18, 2024				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Margaux Ordoveza	<b>Phone:</b>	(512) 239-1128		

## 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.

1	Date:	08/01/2023 (1923139)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.115(f)(1)	
	Description:	TTHM LRAA MCL 2Q2023 – During the 2nd quarter of 2023 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 13315 TX 146 S BRKRM, Dayton (DBP2-01). ETT Point Value =5	

*Compliance History Report for CN602986754, RN106279466, Rating Year 2023 which includes Compliance History (CH) components from June 18, 2019, through June 18, 2024.*

*Customer was not affiliated to Regulated Entity at time of Compliance History Rating.*

**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  
MARK MAHER, JR.  
DBA INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 450;  
RN106279466

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2023-1434-PWS-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mark Maher, Jr. dba International Union of Operating Engineers Local 450 ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

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

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

### FINDINGS OF FACT

1. Respondent owns and operates a public water system ("PWS") located at 13315 Highway 146 South in Dayton, Liberty County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 4 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a PWS as defined in 30 TEX. ADMIN. CODE § 290.38(73).
2. During a record review conducted on and around August 7, 2023, through August 18, 2023, an investigator documented that Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentration of TTHM for Stage 2 Disinfection Byproducts ("DBP2") at Site 1 was 0.086 mg/L for the fourth quarter of 2022, 0.085 mg/L for the first quarter of 2023, and 0.082 mg/L for the second quarter of 2023.
3. The Executive Director recognizes that Respondent came into compliance with the MCL of 0.080 mg/L for TTHM, based on the locational running annual average at the Facility, as of November 2, 2023.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on the locational running annual average, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$1,187 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(a). Respondent paid \$1,187 of the penalty.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
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 Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
6. 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.
7. 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and

may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under Tex. Bus. Org. Code § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date



9/9/24

\_\_\_\_\_  
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 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;
- Referral of this case to the Attorney General's office 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 Attorney General's office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Mark Maher Jr.

Name (Printed or typed)

Authorized representative of

Mark Maher, Jr. dba International Union of Operating Engineers Local 450

President - Business Manager

Title

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_