

Executive Summary – Enforcement Matter – Case No. 65314

**Xevex Materials' LLC
RN111786778
Docket No. 2024-0234-MLM-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – AIR, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Niederwald Batch Plant 1, 7200 Niederwald Strasse, Niederwald, Hays County

Type of Operation:

Concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 4, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,250

Amount Deferred for Expedited Settlement: \$2,250

Total Paid to General Revenue: \$250

Total Due to General Revenue: \$8,750

Payment Plan: 35 payments of \$250 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 5, 2023

Date(s) of NOE(s): September 15, 2023

Executive Summary – Enforcement Matter – Case No. 65314
Xevex Materials' LLC
RN111786778
Docket No. 2024-0234-MLM-E

Violation Information

1. Failed to obtain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was performing industrial activities prior to obtaining authorization under the Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

2. Failed to register an aboveground storage tank ("AST") in existence on or after September 1, 1989, with the TCEQ. Specifically, the Respondent owns and operates an AST of diesel greater than 1,100 gallons on the Site and has not registered the AST with the TCEQ [30 TEX. ADMIN. CODE § 334.127(a)(1) and TEX. WATER CODE § 26.346(a)].

3. Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent started construction at the Site prior to obtaining authorization as there were ready-mix trucks, stockpiles, a low-profile silo, and a volumetric truck for bulk material handling on-site [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By December 27, 2023, obtained an air quality standard permit for emissions associated with concrete batch plants;
- b. By January 10, 2024, obtained authorization to discharge stormwater associated with industrial activities; and
- c. By July 2, 2024, removed the 1,100-gallon AST from the Site.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 65314
Xevex Materials' LLC
RN111786778
Docket No. 2024-0234-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mistie Gonzales, Enforcement Division, Enforcement Team 1, MC R-9, (254) 761-3056; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Benjamin Gonzalez, Managing Member, Xevex Materials' LLC, P.O. Box 681, Buda, Texas 78610

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Sep-2023	Screening	21-Dec-2024	EPA Due	
	PCW	11-Feb-2024				

RESPONDENT/FACILITY INFORMATION	
Respondent	Xevex Materials' LLC
Reg. Ent. Ref. No.	RN111786778
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	65314	No. of Violations	3
Docket No.	2024-0234-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Mistie Gonzales
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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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	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$190
 Estimated Cost of Compliance: \$10,825
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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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	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,250
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,000
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Screening Date 21-Dec-2024

Docket No. 2024-0234-MLM-E

PCW

Respondent Xevex Materials' LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 65314

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111786778

Media Air

Enf. Coordinator Mistie Gonzales

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 21-Dec-2024	Docket No. 2024-0234-MLM-E	PCW
Respondent Xevex Materials' LLC		Policy Revision 5 (January 28, 2021)
Case ID No. 65314		PCW Revision February 11, 2021
Reg. Ent. Reference No. RN111786778		
Media Air		
Enf. Coordinator Mistie Gonzales		

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty

Two quarterly events are recommended, calculated from the investigation date (September 5, 2023) to the screening date (December 21, 2023).

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Xevex Materials' LLC
Case ID No. 65314
Reg. Ent. Reference No. RN111786778
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				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	\$10,225	5-Sep-2023	10-Jan-2024	0.35	\$178	n/a	\$178
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Permit Costs to develop and implement a stormwater pollution prevention plan and submit a Notice of Intent to obtain authorization to discharge stormwater. The Date Required is the investigation date, and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,225

TOTAL

\$178

Screening Date 21-Dec-2024 **Docket No.** 2024-0234-MLM-E **PCW**
Respondent Xevex Materials' LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 65314 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111786778
Media Air
Enf. Coordinator Mistie Gonzales

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.127(a)(1) and Tex. Water Code § 26.346(a)

Violation Description Failed to register an aboveground storage tank ("AST") in existence on or after September 1, 1989, with the TCEQ. Specifically, the Respondent owns and operates an AST of diesel greater than 1,100 gallons on the Site and has not registered the AST with the TCEQ.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10.0%

Matrix Notes 100% of the rule requirements was not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 107 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$250

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes The Respondent achieved compliance by July 2, 2024.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$4 **Violation Final Penalty Total** \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent Xevex Materials' LLC
Case ID No. 65314
Reg. Ent. Reference No. RN111786778
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	5-Sep-2023	2-Jul-2024	0.82	\$4	n/a	\$4

Notes for DELAYED costs

Estimated Other cost to remove the 1,100 gallon AST from the Site. The Date Required is the investigation date, and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 21-Dec-2024	Docket No. 2024-0234-MLM-E	PCW				
Respondent Xevex Materials' LLC	<i>Policy Revision 5 (January 28, 2021)</i>					
Case ID No. 65314	<i>PCW Revision February 11, 2021</i>					
Reg. Ent. Reference No. RN111786778						
Media Air						
Enf. Coordinator Mistie Gonzales						
Violation Number 3						
Rule Cite(s)	30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)					
Violation Description	Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent started construction at the Site prior to obtaining authorization as there were ready-mix trucks, stockpiles, a low-profile silo and a volumetric truck for bulk material handling on-site.					
Base Penalty		\$25,000				
>> Environmental, Property and Human Health Matrix						
OR	Harm					
	Release	Major	Moderate	Minor		
	Actual					
Potential						
		Percent	0.0%			
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
			x			
		Percent	10.0%			
Matrix Notes	100% of the rule requirements were not met.					
		Adjustment	\$22,500			
					\$2,500	
Violation Events						
Number of Violation Events		2	107 Number of violation days			
		daily				
		weekly				
		monthly				
		quarterly	x			
		semiannual				
		annual				
		single event				
		Violation Base Penalty				\$5,000
Two quarterly events are recommended, calculated from the investigation date (September 5, 2023) to the screening date (December 21, 2023).						
Good Faith Efforts to Comply		10.0%		Reduction		\$500
		<small>Before NOE/NOV NOE/NOV to EDRP/Settlement Offer</small>				
		Extraordinary				
		Ordinary		x		
		N/A				
Notes		The Respondent achieved compliance on December 27, 2023.				
		Violation Subtotal				\$4,500
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		\$8	Violation Final Penalty Total		\$4,500	
		This violation Final Assessed Penalty (adjusted for limits)				\$4,500

Economic Benefit Worksheet

Respondent Xevex Materials' LLC
Case ID No. 65314
Reg. Ent. Reference No. RN111786778
Media Air
Violation No. 3

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	\$500	5-Sep-2023	27-Dec-2023	0.31	\$8	n/a	\$8
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Permit Costs to obtain Standard Permit No. 173564 that authorizes emissions associated with the concrete batch plant or comply with the conditions for a Permit By Rule under 30 Tex. Admin. Code § 106.144. The Date Required is the investigation date, and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$8



Compliance History Report

Compliance History Report for CN606168698, RN111786778, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN606168698, Xevex Materials' LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN111786778, Niederwald Batch Plant 1 **Classification:** UNCLASSIFIED **Rating:** -----

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

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 7200 Niederwald Strasse, Niederwald, Hays County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
AIR QUALITY NON-PERMITTED ID NUMBER: R11111786778 **AIR NEW SOURCE PERMITS REGISTRATION:** 173564
AIR NEW SOURCE PERMITS REGISTRATION: 174157 **WASTEWATER PERMIT:** TXG113601

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

Date Compliance History Report Prepared: March 04, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 04, 2019 to March 04, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Mistie Gonzales **Phone:** (254) 761-3056

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
XEVEX MATERIALS' LLC
RN111786778

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2024-0234-MLM-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 Xevex Materials' LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 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, as defined in 30 TEX. ADMIN. CODE § 334.2(75) and (78), an aboveground storage tank ("AST") system and a concrete batch plant located at 7200 Niederwald Strasse in Niederwald, Hays County, Texas (the "Site"). The AST system at the Site is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ. The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5) and 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, TEX. WATER CODE ch. 26, and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$11,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$250 of the penalty and \$2,250 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$8,750 of the und deferred penalty shall be paid in 35 monthly payments of \$250 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order,

including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Site:
 - a. By December 27, 2023, obtained an air quality standard permit for emissions associated with concrete batch plants;
 - b. By January 10, 2024, obtained authorization to discharge stormwater associated with industrial activities; and
 - c. By July 2, 2024, removed the 1,100-gallon AST from the Site.

II. ALLEGATIONS

During an investigation at the Site conducted on September 5, 2023, an investigator documented that the Respondent:

1. Failed to obtain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, the Respondent was performing industrial activities prior to obtaining authorization under the Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000.
2. Failed to register an AST in existence on or after September 1, 1989, with the TCEQ, in violation of 30 TEX. ADMIN. CODE § 334.127(a)(1) and TEX. WATER CODE § 26.346(a).

Specifically, the Respondent owns and operates an AST of diesel greater than 1,100 gallons on the Site and has not registered the AST with the TCEQ.

3. Failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b). Specifically, the Respondent started construction at the Site prior to obtaining authorization as there were ready-mix trucks, stockpiles, a low-profile silo, and a volumetric truck for bulk material handling on-site.

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: Xevex Materials' LLC, Docket No. 2024-0234-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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

10/11/2024

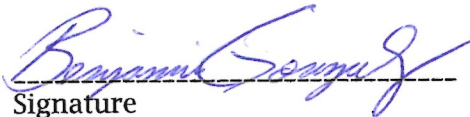
Date

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

8/27/24

Date

Benjamin Gonzalez

Name (Printed or typed)
Authorized Representative of
Xevex Materials' LLC

Managing Member

Title

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.