

Executive Summary – Enforcement Matter – Case No. 65950

NPC Braunfels, LLC

RN111753661

Docket No. 2024-1167-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Hoffman Condos, 1950 Hoffmann Lane, New Braunfels, Comal County

Type of Operation:

Construction site

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: December 13, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,000

Amount Deferred for Expedited Settlement: \$4,000

Total Paid to General Revenue: \$16,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): April 27, 2023 and February 20, 2024

Complaint Information: Alleged a Water Pollution Abatement Plan ("WPAP") was not required even though the Respondent was over the Edwards Aquifer Recharge Zone. The second complaint alleged that an RV park was being constructed over the zone without authorization and the septic system installed was not the system permitted by the county.

Date(s) of Investigation: May 24, 2023 through November 14, 2023

Date(s) of NOE(s): April 25, 2024

Executive Summary – Enforcement Matter – Case No. 65950

NPC Braunfels, LLC

RN111753661

Docket No. 2024-1167-EAQ-E

Violation Information

Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activity over the Edwards Aquifer Recharge Zone. Specifically, the Respondent disturbed approximately 6.76 acres of soil and constructed 3.475 acres of new impervious cover at the Site prior to obtaining approval of a WPAP [30 TEX. ADMIN. CODE § 213.4(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease any regulated activity at the Site until such time that an Edwards Aquifer WPAP has been reviewed and approved by the TCEQ San Antonio Regional Office;
- b. Within 30 days, submit a WPAP application;
- c. Within 45 days, submit written certification of compliance with a. and b.; and
- d. Within 120 days, submit written certification that approval of the Edwards Aquifer WPAP has been obtained.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Megan Crinklaw, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1129; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Cortlandt Chalfant, Manager, NPC Braunfels, LLC, 809 South Lamar Boulevard, Suite D, Austin, Texas 78704

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	29-Apr-2024	Screening	30-Apr-2024	EPA Due	
	PCW	14-Jul-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	NPC Braunfels, LLC		
Reg. Ent. Ref. No.	RN111753661		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	65950	No. of Violations	1
Docket No.	2024-1167-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Megan Crinklaw
		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	\$20,000
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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 adjustments for Compliance History.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.				
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$737	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$9,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,000
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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	\$20,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$16,000
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Screening Date	30-Apr-2024	Docket No.	2024-1167-EAQ-E	PCW
Respondent	NPC Braunfels, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65950			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111753661			
Media	Edwards Aquifer			
Enf. Coordinator	Megan Crinklaw			

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)

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	No adjustments for Compliance History.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 30-Apr-2024		Docket No. 2024-1167-EAQ-E		PCW	
Respondent NPC Braunfels, LLC		Policy Revision 5 (January 28, 2021)			
Case ID No. 65950		PCW Revision February 11, 2021			
Reg. Ent. Reference No. RN111753661					
Media Edwards Aquifer					
Enf. Coordinator Megan Crinklaw					
Violation Number		1			
Rule Cite(s)		30 Tex. Admin. Code § 213.4(a)(1)			
Violation Description		Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activity over the Edwards Aquifer Recharge Zone. Specifically, the Respondent disturbed approximately 6.76 acres of soil and constructed 3.475 acres of new impervious cover at the Site prior to obtaining approval of a Water Pollution Abatement Plan ("WPAP").			
		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 20.0%
Matrix Notes	100% of the rule requirements were not met.				
		Adjustment		\$20,000	
				\$5,000	
>> Violation Events					
Number of Violation Events		4		342 Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				
		Violation Base Penalty		\$20,000	
		Four quarterly events are recommended from the investigation date (May 24, 2023) to the screening date (April 30, 2024).			
Good Faith Efforts to Comply		0.0%		Reduction \$0	
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer			
	Extraordinary				
	Ordinary				
	N/A	x			
	Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal		\$20,000	
>> Economic Benefit (EB) for this violation					
>> Statutory Limit Test					
Estimated EB Amount		\$737		Violation Final Penalty Total \$20,000	
		This violation Final Assessed Penalty (adjusted for limits)		\$20,000	

Economic Benefit Worksheet

Respondent NPC Braunfels, LLC
Case ID No. 65950
Reg. Ent. Reference No. RN111753661
Media Edwards Aquifer
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	\$9,000	24-May-2023	11-Jan-2025	1.64	\$737	n/a	\$737
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Permit Costs to prepare and submit an Edwards Aquifer WPAP application and obtain approval. The Date Required is the investigation start 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

\$9,000

TOTAL

\$737



Compliance History Report

Compliance History Report for CN606218519, RN111753661, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN606218519, NPC Braunfels, LLC

Classification: NOT APPLICABLE

Rating: N/A

Regulated Entity: RN111753661, HOFFMAN CONDOS

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 09 - Construction

Location: 1950 Hoffmann Lane, New Braunfels, Comal County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

STORMWATER PERMIT TXR1581NC

WATER QUALITY NON PERMITTED ID NUMBER
R13111753661

Compliance History Period: September 01, 2018 to August 31, 2023

Rating Year: 2023

Rating Date: 09/01/2023

Date Compliance History Report Prepared: July 15, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 15, 2019 to July 15, 2024

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

Name: Megan Crinklaw

Phone: (512) 239-1129

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
NPC BRAUNFELS, LLC
RN111753661

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

AGREED ORDER DOCKET NO. 2024-1167-EAQ-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 NPC Braunfels, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns a construction site located at 1950 Hoffmann Lane in New Braunfels, Comal County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agrees that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$20,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$16,000 of the penalty and \$4,000 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 May 24, 2023 through November 14, 2023, an investigator documented that the Respondent failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1). Specifically, the Respondent disturbed approximately 6.76 acres of soil and constructed 3.475 acres of new impervious cover at the Site prior to obtaining approval of a Water Pollution Abatement Plan ("WPAP").

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: NPC Braunfels, LLC, Docket No. 2024-1167-EAQ-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Immediately cease any regulated activity at the Site until such time that an Edwards Aquifer WPAP has been reviewed and approved by the TCEQ San Antonio Regional Office.

- b. Within 30 days after the effective date of this Order, submit a WPAP application, for review and approval through the TCEQ File Transfer Protocol Secure website to EAAdmin@tceq.texas.gov.

Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadlines specified in writing.

- c. Within 45 days after the effective date of his Order, submit written certification of compliance with Ordering Provision Nos. 2.a and 2.b, in accordance with Ordering Provision No. 2.e.
- d. Within 120 days after the effective date of this Order, submit written certification that approval of the Edwards Aquifer WPAP has been obtained, in accordance with Ordering Provision No. 2.e.
- e. The written certifications of compliance required by Ordering Provision Nos. 2.c and 2.d shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
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



12/30/2024

For the Executive Director

Date

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

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

10/22/24

Date

Cort Chalfant

Name (Printed or typed)
Authorized Representative of
NPC Braunfels, LLC

Manager

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.