

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-0777-WQ-E TCEQ ID: RN104949821 CASE NO.: 29871**  
**RESPONDENT NAME: C. L. CASTILLO BUILDERS, INC.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Off of Graham Point Trail in Royse City, west of County Road 2524, between County Road 2522 and County Road 2526 in Hunt County</p> <p><b>TYPE OF OPERATION:</b> Construction site for custom homes</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 28, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Ms. Elvia Maske, Water Enforcement Section, MC 128, (512) 239-0789  <b>TCEQ Regional Contact:</b> Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901  <b>Respondent:</b> Mr. C. L. Castillo, President, C. L. Castillo Builders, Inc., P O Box 1150, Royse City, Texas 75189  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 20, 2006</p> <p><b>Date of NOE Relating to this Case:</b> June 9, 2006</p> <p><b>Background Facts:</b> An EDPRP was filed July 12, 2007. An EDFARP was filed November 21, 2007. An Agreed Order was signed February 15, 2008.</p> <p><b>Current Compliance Status:</b> The Respondent is in compliance.</p> <p><b>WQ:</b></p> <p>Failed to obtain authorization to discharge storm water at a construction site through Texas Pollution Discharge Elimination System Construction General Permit [30 TEX. ADMIN. CODE § 281.25 (a)(4) and 40 C.F.R. § 122.26 (c)].</p>	<p><b>Total Assessed:</b> \$1,800</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$300/\$1,500</p> <p>The Respondent has paid \$300 of the administrative penalty. The remaining amount of \$1,500 shall be payable in 12 monthly payments of \$125 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <ol style="list-style-type: none"> <li>1. Submitted a Notice of Intent ("N.O.I.") and obtained Storm Water Site Permit No. TXR15CZ08 effective June 11, 2006; and</li> <li>2. Submitted written certification that a Storm Water Prevention Plan for the Site was implemented June 2, 2006.</li> </ol>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	<b>Assigned</b>	05-Jun-2006	<b>Screening</b>	14-Jun-2006	<b>EPA Due</b>	
	<b>PCW</b>	03-Oct-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	C.L. Castillo Builders, Inc.
<b>Reg. Ent. Ref. No.</b>	RN104949821
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor Source

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	29871	<b>No. of Violations</b>	1
<b>Docket No.</b>	2006-0777-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Elvia Maske
<b>Multi-Media</b>		<b>EC's Team</b>	Order Compliance Team
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** **0% Enhancement** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **0% Enhancement** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **10% Reduction** **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with a small x)

**Notes**

**Economic Benefit** **0% Enhancement\*** **Subtotal 6**

Total EB Amounts	<input type="text" value="\$11"/>	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	<input type="text" value="\$1,500"/>	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **0% Reduction** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**PAYABLE PENALTY**

<b>Screening Date</b> 14-Jun-2006	<b>Docket No.</b> 2006-0777-WQ-E	<b>PCW</b>
<b>Respondent</b> C.L. Castillo Builders, Inc.		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 29871		<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b> RN104949821		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Elvia Maske		

### Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written 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 judgements 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</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%
<i>Please Enter Yes or No</i>			
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)**

**Adjustment Percentage (Subtotal 3)** 0%

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

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

No change due to average performer classification.

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

Screening Date 14-Jun-2006

Castillo.gpw

Docket No. 2006-0777-WQ-E

PCW

Respondent C.L. Castillo Builders, Inc.

Policy Revision 2 (September 2002)

Case ID No. 29871

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104949821

Media [Statute] Water Quality

Enf. Coordinator Elvia Maske

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

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 C.L. Castillo Builders, Inc.  
 Case ID No. 29871  
 Reg. Ent. Reference No. RN104949821  
 Media [Statute] Water Quality  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,500	20-Apr-2006	11-Jun-2006	0.1	\$11	n/a	\$11
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to prepare a storm water pollution prevention plan. Date required is the investigation date and final date is the date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$1,500** TOTAL **\$11**

# Compliance History

Customer/Respondent/Owner-Operator: CN602746422 C.L. Castillo Builders, Inc. Classification: AVERAGE Rating: 3.0  
Regulated Entity: RN104949821 CL CASTILLO BUILDERS GRAHAM Classification: Site Rating:  
POINT ESTATES  
ID Number(s):  
Location: OFF OF GRAHAM POINT TRAIL IN ROYSE CITY, W OF  
CR 2524, BETWEEN CR 2522 & CR 2526  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: July 14, 2006  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 14, 2001 to July 14, 2006  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Elvia Maske Phone: (512) 239-0789

## Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 05/30/2006 (465293)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
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  
C. L. CASTILLO BUILDERS, INC.;  
TCEQ ID NO. RN104949821

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2006-0777-WQ-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding C. L. Castillo Builders, Inc. ("C. L. Castillo") under the authority of TEX. WATER CODE chs. 7 and 26, and 40 CODE OF FEDERAL REGULATIONS ("C.F.R.") pt. 122. The Executive Director of the TCEQ, represented by the Litigation Division, and C. L. Castillo, appear before the Commission and together stipulate that:

1. C. L. Castillo owns and operates a construction site for custom homes located off of Graham Point Trail in Royse City, west of County Road 2524, between County Road 2522 and County Road 2526 in Hunt County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, 40 C.F.R. pt. 122, and TCEQ rules
3. The Commission and C. L. Castillo agree that the Commission has jurisdiction to enter this Agreed Order, and that C. L. Castillo is subject to the Commission's jurisdiction.
4. C. L. Castillo received notice of the violations alleged in Section II ("Allegations") on or about June 14, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by C. L. Castillo of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of one thousand eight hundred dollars (\$1,800.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). C. L. Castillo has paid three hundred dollars (\$300.00) of the administrative penalty. The remaining amount of one thousand five hundred dollars (\$1,500.00) of the administrative penalty shall be payable in twelve monthly payments of one hundred twenty-five dollars (\$125.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If C. L. Castillo fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of C. L. Castillo to meet the payment schedule of this Agreed Order constitutes the failure of C. L. Castillo to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. 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.
8. The Executive Director of the TCEQ and C. L. Castillo have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that C. L. Castillo implemented the following corrective measures at the Site in response to this enforcement action:
  - a. Submitted a Notice of Intent ("N.O.I.") and obtained Storm Water Site Permit No. TXR15CZ08 effective June 11, 2006; and
  - b. Submitted written certification that a Storm Water Prevention Plan for the Site was implemented on June 2, 2006.
10. 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 C. L. Castillo has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

C. L. Castillo is alleged to have violated 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c) by failing to obtain authorization to discharge storm water at a construction site through a Texas Pollution Discharge Elimination System Construction General Permit, as documented during an inspection conducted on April 20, 2006 by a DFW Regional Office investigator.

## III. DENIALS

C. L. Castillo generally denies each allegation in Section II ("Allegations").

## IV. ORDER

1. It is, therefore, ordered by the TCEQ that C. L. Castillo pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and C. L. Castillo's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: C. L. Castillo Builders, Inc., Docket No. 2006-0777-WQ-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon C. L. Castillo. C. L. Castillo is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against C. L. Castillo in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to C. L. Castillo, or three days after the date on which the Commission mails notice of the Order to C. L. Castillo, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*[Handwritten Signature]*

For the Executive Director

4/29/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

*C. L. Castillo*  
Signature

2-15-08  
Date

C. L. Castillo  
Name (Printed or typed)  
Authorized representative of  
C. L. Castillo Builders, Inc.

Pres  
Title