

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1307-WQ-E **TCEQ ID:** RN105224547 **CASE NO.:** 34413

RESPONDENT NAME: Earth Haulers, Inc.

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Earth Haulers Azle Site, 1500 West Timberlake Road, Reno, Parker County</p> <p>TYPE OF OPERATION: Sand mining</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received April 30, 2007, alleging that Earth Haulers was pushing sand into Walnut Creek. There is one additional pending enforcement action regarding this facility location, Docket No. 2007-1362-WQ-E.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed a desire to protest this action or speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Elvia Maske, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0789; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Allen Tucker, President, Earth Haulers, Inc., 11500 Mosier Valley Road, Euless, Texas 76040 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: April 30, 2007</p> <p>Date of Investigations Relating to this Case: May 15 and August 6, 2007</p> <p>Date of NOV/NOE Relating to this Case: July 25, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation and a record review. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to prevent unauthorized discharges of sediment to waters in the state. Specifically, small amounts of sand were deposited along the bank and in the channel of Walnut Creek [TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to pay outstanding General Permit Stormwater fees and associated late fees for TCEQ Financial Account No. 20014396 for fiscal year 2006 [30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$1,000</p> <p>Total Deferred: \$200 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$400 (remaining \$400 due in one payment)</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Conduct an investigation of the unauthorized discharge and implement appropriate corrective measures including the rehabilitation and/or installation of adequate erosion and sediment control, as required by the Site's Storm Water Pollution Prevention Plan; and</p> <p>ii. Complete the removal of accumulated sediments from Walnut Creek within and below the Site.</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): None



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	23-Jul-2007	Screening	6-Aug-2007	EPA Due	
	PCW	27-Nov-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Earth Haulers, Inc.		
Reg. Ent. Ref. No.	RN105224547		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34413	No. of Violations	2	
Docket No.	2007-1307-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Elvia Maske	
Multi-Media		EC's Team	EnforcementTeam 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,000

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 \$0

Notes: No adjustment for compliance history.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

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

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts 0% Enhancement* Subtotal 6 \$0
*Capped at the Total EB \$ Amount
 Approx. Cost of Compliance \$221
\$5,000

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

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% Adjustment \$0

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

Notes:

Final Penalty Amount \$1,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,000

DEFERRAL 20% Reduction Adjustment -\$200

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$800

Screening Date 6-Aug-2007

Docket No. 2007-1307-WQ-E

PCW

Respondent Earth Haulers, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34413

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105224547

Media [Statute] Water Quality

Enf. Coordinator Elvia Maske

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

<p>Screening Date 6-Aug-2007</p> <p>Respondent Earth Haulers, Inc.</p> <p>Case ID No. 34413</p> <p>Reg. Ent. Reference No. RN105224547</p> <p>Media [Statute] Water Quality</p> <p>Enf. Coordinator Elvia Maske</p> <p>Violation Number <input type="text" value="1"/></p>	<p>Docket No. 2007-1307-WQ-E</p> <p style="text-align: right;">PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i></p>																			
<p>Rule Cite(s) <input type="text" value="Tex. Water Code § 26.121(a)"/></p>																				
<p>Violation Description <input type="text" value="Failed to prevent unauthorized discharges of sediment to waters in the state. Specifically, small amounts of sand were deposited along the bank and in the channel of Walnut Creek."/></p>																				
<p>Base Penalty <input type="text" value="\$10,000"/></p>																				
<p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="2" style="width:10%;"></td> <td rowspan="2" style="width:10%;"></td> <td colspan="3" style="text-align: center;">Harm</td> <td rowspan="2"></td> </tr> <tr> <td style="width:15%;">Major</td> <td style="width:15%;">Moderate</td> <td style="width:15%;">Minor</td> </tr> <tr> <td rowspan="2" style="vertical-align: middle;">OR</td> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>				Harm				Major	Moderate	Minor	OR	Actual	<input type="text"/>	<input type="text"/>	x	Percent <input type="text" value="10%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Harm																
		Major	Moderate	Minor																
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<p>>> Programmatic Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;"></td> <td style="width:15%;">Major</td> <td style="width:15%;">Moderate</td> <td style="width:15%;">Minor</td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td>Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>			Major	Moderate	Minor	Percent <input type="text" value="0%"/>	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>										
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Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
<p>Matrix Notes <input type="text" value="The environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation."/></p>																				
<p>Adjustment <input type="text" value="\$9,000"/></p>																				
<p><input type="text" value="\$1,000"/></p>																				
<p>Violation Events</p>																				
<p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="83"/> Number of violation days</p>																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="6" style="width:10%; vertical-align: middle;"><i>mark only one with an x</i></td> <td style="width:15%;">daily</td> <td><input type="text"/></td> <td rowspan="6" style="vertical-align: middle;">Violation Base Penalty <input type="text" value="\$1,000"/></td> </tr> <tr> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td>quarterly</td> <td style="text-align: center;">x</td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td><input type="text"/></td> </tr> </table>		<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>					
<i>mark only one with an x</i>	daily		<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>																
	monthly		<input type="text"/>																	
	quarterly		x																	
	semiannual		<input type="text"/>																	
	annual		<input type="text"/>																	
	single event	<input type="text"/>																		
<p><input type="text" value="One quarterly event is recommended from the May 15, 2007 investigation date to the date of screening (August 6, 2007)."/></p>																				
<p>Economic Benefit (EB) for this violation Statutory Limit Test</p>																				
<p>Estimated EB Amount <input type="text" value="\$221"/> Violation Final Penalty Total <input type="text" value="\$1,000"/></p>																				
<p>This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/></p>																				

Economic Benefit Worksheet

Respondent Earth Haulers, Inc.
Case ID No. 34413
Reg. Ent. Reference No. RN105224547
Media 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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	15-May-2007	1-Apr-2008	0.9	\$221	n/a	\$221

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the sediment material. The date required is the date of the investigation, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

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

\$5,000

TOTAL

\$221

Screening Date 6-Aug-2007

Docket No. 2007-1307-WQ-E

PCW

Respondent Earth Haulers, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34413

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105224547

Media [Statute] Water Quality

Enf. Coordinator Elvia Maske

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	<input type="text"/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
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 Earth Haulers, Inc.
Case ID No. 34413
Reg. Ent. Reference No. RN105224547
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description: No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	0.0			0.0	\$0	\$0	\$0
Buildings	0.0			0.0	\$0	\$0	\$0
Other (as needed)	0.0			0.0	\$0	\$0	\$0
Engineering/construction	0.0			0.0	\$0	\$0	\$0
Land	0.0			0.0	\$0	n/a	\$0
Record Keeping System	0.0			0.0	\$0	n/a	\$0
Training/Sampling	0.0			0.0	\$0	n/a	\$0
Remediation/Disposal	0.0			0.0	\$0	n/a	\$0
Permit Costs	0.0			0.0	\$0	n/a	\$0
Other (as needed)	0.0			0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal	0.0			0.0	\$0	\$0	\$0
Personnel	0.0			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0			0.0	\$0	\$0	\$0
Supplies/equipment	0.0			0.0	\$0	\$0	\$0
Financial Assurance [2]	0.0			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0			0.0	\$0	\$0	\$0
Other (as needed)	0.0			0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

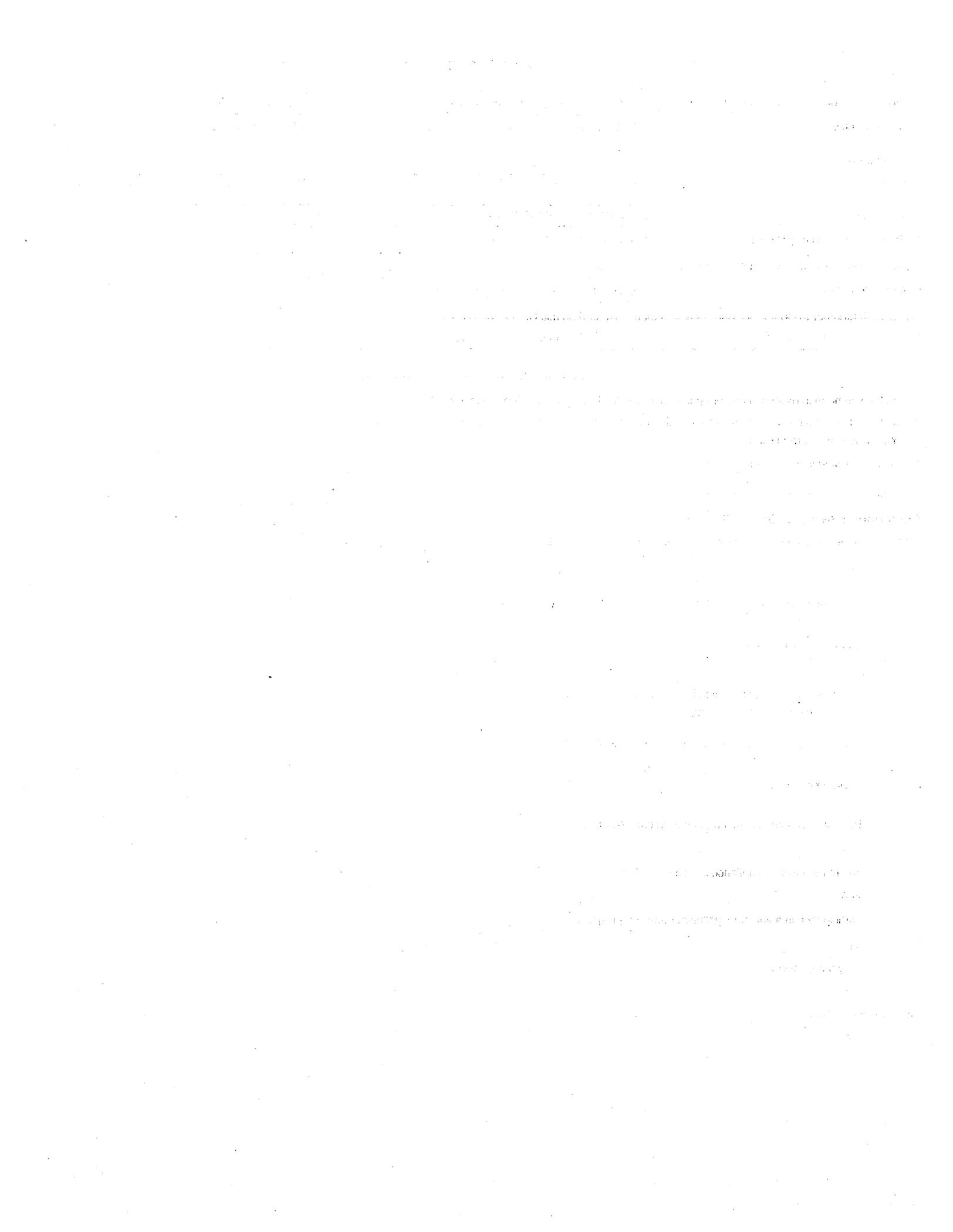
Customer/Respondent/Owner-Operator:	CN600604565 Earth Haulers, Inc.	Classification: Average	Rating: 1.81
Regulated Entity:	RN105224547 EARTH HAULERS AZLE SITE	Classification: High	Site Rating: 0.00
ID Number(s):			
Location:	1500 W TIMBERLAKE RD RENO TX 76020	Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 12, 2002 to September 12, 2007		
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 07/26/2007 (560692)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
EARTH HAULERS, INC.
RN105224547

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1307-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Earth Haulers, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a construction sand mining site at 1500 West Timberlake Road in Reno, Parker County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 30, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Dollars (\$1,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent

has paid Four Hundred Dollars (\$400) of the administrative penalty and Two Hundred Dollars (\$200) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Hundred Dollars (\$400) of the administrative penalty shall be payable in one monthly payment of Four Hundred Dollars (\$400). If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Agreed Order.
10. 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.
11. 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

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to prevent unauthorized discharges of sediment to waters in the state, in violation of TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on May 15, 2007. Specifically, small amounts of sand were deposited along the bank and in the channel of Walnut Creek.
2. Failed to pay outstanding General Permit Stormwater fees and associated late fees for TCEQ Financial Account No. 20014396 for fiscal year 2006, in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702, as documented during a record review conducted on August 6, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Earth Haulers, Inc., Docket No. 2007-1307-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Conduct an investigation of the unauthorized discharge and implement appropriate corrective measures including the rehabilitation and/or installation of adequate erosion and sediment control, as required by the Site's Storm Water Pollution Prevention Plan; and
 - ii. Complete the removal of accumulated sediments from Walnut Creek within and below the Site.
 - b. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Earth Haulers, Inc., TCEQ Account No. 20014396," to the address referenced in Ordering Provision No. 1 above.
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i. through 2.b., include detailed supporting documentation including photographs, receipts, engineering reports, and/or other records to demonstrate erosion control and the measures taken to stop and prevent unauthorized discharges of sediment to waters in the state. The certification shall be notarized by a State of Texas Notary Public and 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:

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

with a copy to:

Manager, Water Section
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.
6. This Agreed 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 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.
7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Earth Haulers, Inc
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

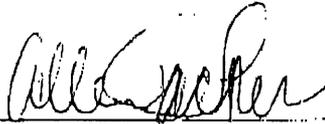
Date 1/21/2008

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 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 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, any falsification of any compliance documents may result in criminal prosecution.

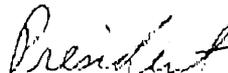


Signature

Date 08 Jan 07



Name (Printed or typed)
Authorized Representative of
Earth Haulers, Inc.



Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order

