

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1030-WQ-E **TCEQ ID:** RN105129373 **CASE NO.:** 36121

**RESPONDENT NAME:** Hereford Highway Properties, Ltd.

<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> Hereford Highway Properties Creekside Addition Unit No. 1, located on the northwest corner of the intersection of United States Highway 60 and Farm-to-Market Road 2590, Randall County</p> <p><b>TYPE OF OPERATION:</b> Residential construction site</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received May 15, 2008, alleging that storm water was silting in the storm sewer system at the Respondent's construction site and causing problems with mud on the roads. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 5, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Bill Chudej, Managing Partner, Hereford Highway Properties, Ltd., 1619 Tyler, Amarillo, Texas 79012  <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>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> May 15, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> May 19 and May 27, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 10, 2008 (NOE)</p> <p><b>Background Facts:</b> These were complaint investigations.</p> <p><b>WATER</b></p> <p>1) Failure to post a copy of the signed Notice of Intent ("NOI") at the Site [40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15EK73, Part II Section E.3(c)].</p> <p>2) Failure to post a completed construction site notice in a location at the Site prior to commencing construction and maintaining the notice in that location until the completion of the construction activity [40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part II Section E.3(d)].</p> <p>3) Failure to prevent the unauthorized discharge of sediment into or adjacent to water in the state and to remove accumulated sediment that has escaped the Site at a frequency that minimizes off-site impact prior to the next rain event. Specifically, significant amounts of sediment were documented entering the storm drains along the entrance road of the Site, as well as significant erosion and sediment running off-site along the northeast and southeast boundaries of the Site into the barrow ditch along Farm-to-Market Road 2590 and thence into Palo Duro Creek [40 CFR § 122.26, TEX. WATER CODE § 26.121(a)(1), 30 TEX.</p>	<p><b>Total Assessed:</b> \$5,600</p> <p><b>Total Deferred:</b> \$1,120  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,480</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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease the discharge of sediment-laden storm water from the Site.</p> <p>b. Within 15 days after the effective date of this Agreed Order:</p> <p>i. Repair, replace, and/or selectively install structural controls along the northeast side, northeast corner, southeast side, east side, along the entrance road of the Site, and the concrete wash out area;</p> <p>ii. Remove and properly dispose of the accumulated sediments within the Site, in Palo Duro Creek, and on any affected streets; and</p> <p>iii. Post a copy of the signed NOI and completed construction site notice.</p> <p>c. Within 30 days after the effective date of this Agreed Order, update the SWP3 to include the following items and/or sections:</p> <p>i. A section describing erosion control and stabilization measures in portions of the Site where construction activities have ceased for more than 14 days;</p> <p>ii. Data describing the soil or quality of any discharge from the Site;</p> <p>iii. An updated site map including drainage patterns and approximate slopes anticipated after major grading activities; and</p> <p>iv. A description of temporary and permanent stabilization BMP selected for the Site and a schedule for implementation.</p> <p>d. Within 45 days of the effective date of this Agreed Order, and with the proper approval from the local municipal separate storm water sewer authority, inspect all separate storm water drains and entry points throughout the Site, and submit the results of the inspections.</p> <p>e. Within 60 days after the effective date of</p>

<p>ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F.6(d)].</p> <p>4) Failure to initiate erosion control and stabilization measures as soon as practicable in portions of the Site where construction activities have ceased for more than 14 days. Specifically, several portions of the Site were not stabilized within 14 days of temporarily or permanently ceasing construction activities [40 CFR § 122.26, TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F. 2(b)(iii)].</p> <p>5) Failure to install or maintain perimeter sediment controls. Specifically, several locations along the southeast, north and east property boundaries of the Site had either no perimeter structural controls or damaged silt fencing [40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F. 2.c(i)(B)].</p> <p>6) Failure to maintain protective measures at the Site. Specifically, several silt fences throughout the Site, at the northeast corner of the Site, and along the north side of the entrance road were filled with sediment, not operating effectively, or are in need of repair [40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F. 6.a].</p> <p>7) Failure to discharge concrete wash out water to areas where structural controls have been established to prevent discharge to surface waters or to areas that have minimal slope that allow infiltration and filtering of wash out water to prevent direct discharge to surface waters. Specifically, a concrete wash out area was documented without any structural controls and in a location of the Site without minimal slope [40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part V.2].</p> <p>8) Failure to include, at a minimum, site or project information in the storm water pollution prevention plan ("SWP3") and a description of best management practices ("BMP") that will be used to minimize pollution in runoff, as described in Section F of TPDES General Permit No. TXR15EK73. Specifically, the SWP3 did not contain data describing the soil or</p>		<p>this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a through d.</p>
--	--	--

<p>quality of any discharge from the Site, site map drainage patterns and approximate slopes anticipated after major grading activities, and a description of temporary and permanent stabilization best management practices ("BMP") selected for the Site and a schedule for implementation [40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III F(1)(e) and (g) and 2(b)].</p>		
---	--	--

Additional ID No(s): TXR15EK73



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

DATES	Assigned	17-Jun-2008	Screening	25-Jun-2008	EPA Due	
	PCW	25-Jun-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Hereford Highway Properties, Ltd.
Reg. Ent. Ref. No.	RN105129373
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36121	No. of Violations	5
Docket No.	2008-1030-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lauren Smitherman
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,600
---	-------------------	---------

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

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

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
---------------------------	------------------	--------------------------------	-----

Notes: No enhancement is recommended due to Average Performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b>	\$0
-------------------------	------------------	-------------------	-----

Total EB Amounts: \$163  
 Approx. Cost of Compliance: \$3,450  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,600
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$5,600
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,600
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,120
-----------------	-----------------	-------------------	----------

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

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$4,480
------------------------	---------

Screening Date 25-Jun-2008

Docket No. 2008-1030-WQ-E

PCW

Respondent Hereford Highway Properties, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 36121

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105129373

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

### 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 judgements 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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No enhancement is recommended due to Average Performer classification.

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

<p><b>Screening Date</b> 25-Jun-2008</p> <p><b>Respondent</b> Hereford Highway Properties, Ltd.</p> <p><b>Case ID No.</b> 36121</p> <p><b>Reg. Ent. Reference No.</b> RN105129373</p> <p><b>Media [Statute]</b> Water Quality</p> <p><b>Enf. Coordinator</b> Lauren Smitherman</p> <p><b>Violation Number</b> <input type="text" value="1"/></p> <p><b>Rule Cite(s)</b> 40 Code of Federal Regulations ("CFR") § 122.26, 30 Tex. Admin. Code § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15EK73, Part II Section E.3(c)</p> <p><b>Violation Description</b> Failed to post a copy of the signed Notice of Intent at the Site, as documented during investigations on May 19, 2008 and May 27, 2008.</p>	<p><b>Docket No.</b> 2008-1030-WQ-E</p> <p><b>PCW</b></p> <p><i>Policy Revision 2 (September 2002)</i></p> <p><i>PCW Revision June 12, 2008</i></p>																			
<b>Base Penalty</b> <input type="text" value="\$10,000"/>																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
<p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"><b>Percent</b> <input type="text" value="0%"/></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		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Harm																			
	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>																
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
<b>&gt;&gt; Programmatic Matrix</b>																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Falsification</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;"><b>Percent</b> <input type="text" value="10%"/></td> </tr> <tr> <td>Matrix Notes</td> <td colspan="3" style="text-align: center;">100% of the rule requirement was not met.</td> </tr> </table>		Harm					Major	Moderate	Minor		Falsification	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>	Matrix Notes	100% of the rule requirement was not met.			
	Harm																			
	Major	Moderate	Minor																	
Falsification	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>																
Matrix Notes	100% of the rule requirement was not met.																			
<b>Adjustment</b> <input type="text" value="\$9,000"/>																				
<input type="text" value="\$1,000"/>																				
<b>Violation Events</b>																				
<p>Number of Violation Events <input type="text" value="1"/>      <input type="text" value="37"/> Number of violation days</p> <p>mark only one with an x</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></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 style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<p><b>Violation Base Penalty</b> <input type="text" value="\$1,000"/></p>							
daily	<input type="text"/>																			
monthly	<input type="text"/>																			
quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	x																			
<p>One single event is recommended based upon documentation of the violation during the investigation beginning on May 19, 2008.</p>																				
<b>Good Faith Efforts to Comply</b>																				
<p><b>0.0%</b> Reduction</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> <tr> <td>Notes</td> <td colspan="2" style="text-align: center;">The Respondent does not meet the good faith criteria for this violation.</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)	Notes	The Respondent does not meet the good faith criteria for this violation.		<p><input type="text" value="\$0"/></p>				
	Before NOV	NOV to EDPRP/Settlement Offer																		
Extraordinary	<input type="text"/>	<input type="text"/>																		
Ordinary	<input type="text"/>	<input type="text"/>																		
N/A	x	(mark with x)																		
Notes	The Respondent does not meet the good faith criteria for this violation.																			
<b>Violation Subtotal</b> <input type="text" value="\$1,000"/>																				
<b>Economic Benefit (EB) for this violation</b>																				
<p><b>Statutory Limit Test</b></p> <p>Estimated EB Amount <input type="text" value="\$1"/></p>	<p>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** Hereford Highway Properties, Ltd.  
**Case ID No.** 36121  
**Reg. Ent. Reference No.** RN105129373  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	19-May-2008	30-Nov-2008	0.53	\$0	\$1	\$1
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to post a copy of the Notice of Intent at the Site. The date required is the date of the investigation. The final date is the date of expected compliance.

**Avoided Costs**

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$1

<b>Screening Date</b> 25-Jun-2008	<b>Docket No.</b> 2008-1030-WQ-E	<b>PCW</b>	
<b>Respondent</b> Hereford Highway Properties, Ltd.		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 38121		<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN105129373			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Lauren Smitherman			
<b>Violation Number</b> <input type="text" value="2"/>			
<b>Rule Cite(s)</b>	40 CFR § 122.26, 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR15EK73, Part II Section E.3(d)		
<b>Violation Description</b>	Failed to post a completed construction site notice in a location at the Site prior to commencing construction and maintaining the notice in that location until the completion of the construction activity, as documented during investigations on May 19, 2008 and May 27, 2008.		
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
	Actual <input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential <input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>	
			<input type="text" value="\$1,000"/>
<b>Violation Events</b>			
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>
			<input type="text" value="37"/>
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="checkbox"/>	
	<input type="text" value="\$1,000"/>		
	One single event is recommended based upon documentation of the violation during the investigation beginning on May 19, 2008.		
<b>Good Faith Efforts to Comply</b>			
	<input type="text" value="0.0%"/>	<b>Reduction</b>	<input type="text" value="\$0"/>
	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
	<b>Violation Subtotal</b>	<input type="text" value="\$1,000"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,000"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$1,000"/>

## Economic Benefit Worksheet

**Respondent** Hereford Highway Properties, Ltd.  
**Case ID No.** 36121  
**Reg. Ent. Reference No.** RN105129373  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

Item Description No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	19-May-2008	30-Nov-2008	0.53	\$0	\$1	\$1
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to post a completed construction site notice at the Site. The date required is the date of the investigation. The final date is the date of expected 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				0.00	\$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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$1

<b>Screening Date</b> 25-Jun-2008	<b>Docket No.</b> 2008-1030-WQ-E	<b>PCW</b>												
<b>Respondent</b> Hereford Highway Properties, Ltd.		<small>Policy Revision 2 (September 2002)</small>												
<b>Case ID No.</b> 36121		<small>PCW Revision June 12, 2008</small>												
<b>Reg. Ent. Reference No.</b> RN105129373														
<b>Media [Statute]</b> Water Quality														
<b>Enf. Coordinator</b> Lauren Smitherman														
<b>Violation Number</b> 3														
<b>Rule Cite(s)</b>	40 CFR § 122.26, Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 281.25(a)(4), TPDES General Permit No. TXR15EK73, Part III Section F.6 (a) and (d), Part III Section F. 2.c(i)(B), and Part III Section F. 2(b)(iii)													
<b>Violation Description</b>	Failed to design and implement erosion and sediment controls in an effective operating condition and failure to initiate stabilization measures resulting in discharges of sediment to water in the state, as documented during the investigations conducted on May 19, 2008 and May 27, 2008. Specifically, significant amounts of sediment were documented entering the storm drains along the entrance road of the Site, as well as, significant erosion and sediment running off-site along the northeast and southeast boundaries of the Site into the barrow ditch along Farm-to-Market Road 2590 and thence into Palo Duro Creek. The investigator also observed that several portions of the Site were not stabilized within 14 days of temporarily or permanently ceasing construction activities and several locations along the southeast, north and east property boundaries of the Site had either no perimeter structural controls or damaged silt fencing.													
	<b>Base Penalty</b>	\$10,000												
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
OR	<b>Release</b>	<b>Harm</b>												
		Major      Moderate      Minor												
	Actual	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>												
	Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>												
		<b>Percent</b> 25%												
<b>&gt;&gt; Programmatic Matrix</b>														
	<b>Falsification</b>	<b>Major</b> <b>Moderate</b> <b>Minor</b>												
	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>												
		<b>Percent</b> 0%												
<b>Matrix Notes</b>	Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.													
	<b>Adjustment</b>	\$7,500												
		\$2,500												
<b>Violation Events</b>														
	<b>Number of Violation Events</b>	<input type="checkbox"/> 1 <input checked="" type="checkbox"/> 37 <b>Number of violation days</b>												
	<i>mark only one with an x</i>	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td>daily</td><td><input type="checkbox"/></td></tr> <tr><td>monthly</td><td><input type="checkbox"/></td></tr> <tr><td>quarterly</td><td><input checked="" type="checkbox"/></td></tr> <tr><td>semiannual</td><td><input type="checkbox"/></td></tr> <tr><td>annual</td><td><input type="checkbox"/></td></tr> <tr><td>single event</td><td><input type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>
daily	<input type="checkbox"/>													
monthly	<input type="checkbox"/>													
quarterly	<input checked="" type="checkbox"/>													
semiannual	<input type="checkbox"/>													
annual	<input type="checkbox"/>													
single event	<input type="checkbox"/>													
		<b>Violation Base Penalty</b> \$2,500												
One quarterly event is recommended based upon documentation of the violation during the investigation beginning on May 19, 2008 to date of screening (June 25, 2008).														
<b>Good Faith Efforts to Comply</b>														
	<b>0.0% Reduction</b>	\$0												
	Before NOV      NOV to EDPRP/Settlement Offer													
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>												
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>												
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)												
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.													
	<b>Violation Subtotal</b>	\$2,500												
<b>Economic Benefit (EB) for this violation</b>														
	<b>Estimated EB Amount</b>	\$148												
	<b>Statutory Limit Test</b>	<b>Violation Final Penalty Total</b> \$2,500												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$2,500													

## Economic Benefit Worksheet

**Respondent** Hereford Highway Properties, Ltd.  
**Case ID No.** 36121  
**Reg. Ent. Reference No.** RN105129373  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$3,000	19-May-2008	31-Jan-2009	0.70	\$7	\$141	\$148
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to clean up the discharged sediment and/or install selected perimeter and storm drain structural controls to minimize the off-site transport of sediment. The date required is the date of investigation. The final date is the expected 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				0.00	\$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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$3,000

TOTAL \$148

<b>Screening Date</b> 25-Jun-2008	<b>Docket No.</b> 2008-1030-WQ-E	<b>PCW</b>	
<b>Respondent</b> Hereford Highway Properties, Ltd.	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36121	<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN105129373			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Lauren Smitherman			
<b>Violation Number</b> 4			
<b>Rule Cite(s)</b>	40 CFR § 122.26, Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR15EK73, Part V.2.		
<b>Violation Description</b>	Failed to discharge concrete wash out water to areas where structural controls have been established to prevent discharge to surface waters or to areas that have minimal slope that allow infiltration and filtering of wash out water to prevent direct discharge to surface waters, as documented during investigations on May 19, 2008 and May 27, 2008. Specifically, a concrete wash out area was documented without any structural controls.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
	Actual	Potential	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	10%
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate
	Minor		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>		
			Percent
			0%
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants as result of the violation.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
Number of Violation Events		1	37
		Number of violation days	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
One quarterly event is recommended based upon documentation of the violation during the investigation beginning on May 19, 2008 to screening date (June 25, 2008).			\$1,000
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>		\$1,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount		\$7	Violation Final Penalty Total
		\$1,000	
		This violation Final Assessed Penalty (adjusted for limits)	
		\$1,000	

## Economic Benefit Worksheet

**Respondent** Hereford Highway Properties, Ltd.  
**Case ID No.** 36121  
**Reg. Ent. Reference No.** RN105129373  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

No commas or \$

**Delayed Costs**

Equipment	\$100	19-May-2008	30-Nov-2008	0.53	\$0	\$4	\$4
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	19-May-2008	30-Nov-2008	0.53	\$0	\$4	\$4
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for labor and equipment to install structural controls to the concrete wash out area. The date required is the date of investigation. The final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$7

<b>Screening Date</b> 25-Jun-2008	<b>Docket No.</b> 2008-1030-WQ-E	<b>PCW</b>												
<b>Respondent</b> Hereford Highway Properties, Ltd.		<small>Policy Revision 2 (September 2002)</small>												
<b>Case ID No.</b> 38121		<small>PCW Revision June 12, 2008</small>												
<b>Reg. Ent. Reference No.</b> RN105129373														
<b>Media [Statute]</b> Water Quality														
<b>Enf. Coordinator</b> Lauren Smitherman														
<b>Violation Number</b> <input type="text" value="5"/>														
<b>Rule Cite(s)</b>	40 CFR § 122.26, 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR15EK73, Part III F. (1)(e) and (g)(i) and 2(b)													
<b>Violation Description</b>	Failed to include, at a minimum, site or project information in the storm water pollution prevention plan ("SWP3") and a description of best management practices that will be used to minimize pollution in runoff, as described in Section F of TPDES General Permit No. TXR15EK73, and as documented during investigations on May 19, 2008 and May 27, 2008. Specifically, the SWP3 did not contain data describing the soil or quality of any discharge from the Site, site map drainage patterns and approximate slopes anticipated after major grading activities, and a description of temporary and permanent stabilization best management practices ("BMP") selected for the Site and a schedule for implementation.													
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>												
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
<b>OR</b>	<b>Harm</b>													
	Release    Major    Moderate    Minor													
	Actual <input type="text"/> <input type="text"/> <input type="text"/>													
	Potential <input type="text"/> <input type="text"/> <input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>												
<b>&gt;&gt; Programmatic Matrix</b>														
	Falsification    Major    Moderate    Minor													
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text" value="x"/>	<b>Percent</b> <input type="text" value="1%"/>												
<b>Matrix Notes</b>	<input type="text" value="More than 70% of the rule requirement was met."/>													
	<b>Adjustment</b>	<input type="text" value="\$9,900"/>												
		<input type="text" value="\$100"/>												
<b>Violation Events</b>														
	<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="37"/> <b>Number of violation days</b>												
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></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" value="x"/></td></tr> </table>	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" value="x"/>	<b>Violation Base Penalty</b> <input type="text" value="\$100"/>
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" value="x"/>													
	<input type="text" value="One single event is recommended based upon documentation of the violation during the investigation beginning on May 19, 2008."/>													
<b>Good Faith Efforts to Comply</b>														
	<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>												
	<small>Before NOV    NOV to EDPRI/Settlement Offer</small>													
<b>Extraordinary</b>	<input type="text"/>													
<b>Ordinary</b>	<input type="text"/>													
<b>N/A</b>	<input type="text" value="x"/> (mark with x)													
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>													
	<b>Violation Subtotal</b>	<input type="text" value="\$100"/>												
<b>Economic Benefit (EB) for this violation</b>														
	<b>Estimated EB Amount</b> <input type="text" value="\$5"/>	<b>Statutory Limit Test</b>												
		<b>Violation Final Penalty Total</b> <input type="text" value="\$100"/>												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$100"/>													

## Economic Benefit Worksheet

**Respondent** Hereford Highway Properties, Ltd.  
**Case ID No.** 36121  
**Reg. Ent. Reference No.** RN105129373  
**Media** Water Quality  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

Item Description No commas or \$

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$200	19-May-2008	30-Nov-2008	0.53	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs  
 Estimated costs to update the SWP3 to include a revised site map, soil data analysis, and a description of erosion control and stabilization BMP. The date required is the date of investigation. The final date of the expected date of compliance.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$5

# Compliance History

Customer/Respondent/Owner-Operator: CN603132549    HEREFORD HIGHWAY PROPERTIES LTD    Classification: AVERAGE    Rating: 3.01

Regulated Entity: RN105129373    HEREFORD HIGHWAY PROPERTIES CREEKSIDE ADDITION UNIT 1    Classification: AVERAGE BY Site Rating: 3.01 DEFAULT

ID Number(s): STORMWATER    PERMIT    TXR15EK73

Location: ON THE NW CORNER OF THE INTERSECTION OF US HIGHWAY 60 AND FM 2590 RANDALL COUNTY, TEXAS    Rating Date: September 01 07    Repeat Violator: NO

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: June 24, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 24, 2003 to June 24, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Lauren Smitherman    Phone: 512-239-5223

## Site Compliance History Components

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 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.)  
N/A
  - 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  
HEREFORD HIGHWAY  
PROPERTIES, LTD.  
RN105129373

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1030-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 Hereford Highway Properties, Ltd. ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a residential construction site located on the northwest corner of the intersection of United States Highway 60 and Farm-to-Market Road 2590 in Randall 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 June 15, 2008.
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 Five Thousand Six Hundred Dollars (\$5,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Four Hundred Eighty Dollars (\$4,480) of the administrative penalty and One Thousand One Hundred Twenty Dollars (\$1,120) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
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 post a copy of the signed Notice of Intent at the Site, in violation of 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15EK73, Part II Section E.3(c), as documented during investigations on May 19, 2008 and May 27, 2008.
2. Failed to post a completed construction site notice in a location at the Site prior to commencing construction and maintaining the notice in that location until the completion of the construction activity, in violation of 40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part II Section E.3(d), as documented during investigations on May 19, 2008 and May 27, 2008.
3. Failed to prevent the unauthorized discharge of sediment into or adjacent to water of the state and to remove accumulated sediment that has escaped the Site at a frequency that minimizes off-site impact prior to the next rain event, in violation of 40 CFR § 122.26, TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F.6(d), as documented during investigations on May 19, 2008 and



May 27, 2008. Specifically, significant amounts of sediment were documented entering the storm drains along the entrance road of the Site, as well as, significant erosion and sediment running off-site along the northeast and southeast boundaries of the Site into the barrow ditch along Farm-to-Market Road 2590 and thence into Palo Duro Creek.

4. Failed to initiate erosion control and stabilization measures as soon as practicable in portions of the Site where construction activities have ceased for more than 14 days, in violation of 40 CFR § 122.26, TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F. 2(b)(iii), as documented during investigations on May 19, 2008 and May 27, 2008. Specifically, several portions of the Site were not stabilized within 14 days of temporarily or permanently ceasing construction activities.
5. Failed to install or maintain perimeter sediment controls, in violation of 40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F. 2.c(i)(B), as documented during investigations on May 19, 2008 and May 27, 2008. Specifically, several locations along the southeast, north and east property boundaries of the Site had either no perimeter structural controls or damaged silt fencing.
6. Failed to maintain protective measures at the Site, in violation of 40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III Section F. 6.a, as documented during investigations on May 19, 2008 and May 27, 2008. Specifically, several silt fences throughout the Site, at the northeast corner of the Site, and along the north side of the entrance road were filled with sediment, not operating effectively, or are in need of repair.
7. Failed to discharge of concrete wash out water to areas where structural controls have been established to prevent discharge to surface waters or to areas that have minimal slope that allow infiltration and filtering of wash out water to prevent direct discharge to surface waters, in violation of 40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part V.2, as documented during investigations on May 19, 2008 and May 27, 2008. Specifically, a concrete wash out area was documented without any structural controls and in a location of the Site without minimal slope.
8. Failed to include, at a minimum, site or project information in the storm water pollution prevention plan ("SWP3") and a description of best management practices that will be used to minimize pollution in runoff, as described in Section F of TPDES General Permit No. TXR15EK73, in violation of 40 CFR § 122.26, 30 TEX. ADMIN. CODE § 281.25(a)(4), and TPDES General Permit No. TXR15EK73, Part III F(1)(e) and (g) and 2(b), as documented during investigations on May 19, 2008 and May 27, 2008. Specifically, the SWP3 did not contain data describing the soil or quality of any discharge from the Site, site map drainage patterns and approximate slopes anticipated after major grading activities, and a description of temporary and permanent stabilization best management practices ("BMP") selected for the Site and a schedule for implementation.

### 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: Hereford Highway Properties, Ltd., Docket No. 2008-1030-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, cease the discharge of sediment-laden storm water from the Site.
  - b. Within 15 days of the effective date of this Agreed Order, complete the following corrective actions at the Site:
    - i. Repair, replace, and/or selectively install structural controls along the northeast side, northeast corner, southeast side, east side, along the entrance road of the Site, and the concrete wash out area;
    - ii. Remove and properly dispose of the accumulated sediments within the Site, in Palo Duro Creek, and on any affected streets; and
    - iii. Post a copy of the signed Notice of Intent and completed construction site notice.
  - c. Within 30 days of the effective date of this Agreed Order, update the SWP3 to include the following items and/or sections:
    - i. A section describing erosion control and stabilization measures in portions of the Site where construction activities have ceased for more than 14 days;
    - ii. Data describing the soil or quality of any discharge from the Site;
    - iii. An updated site map including drainage patterns and approximate slopes anticipated after major grading activities; and
    - iv. A description of temporary and permanent stabilization best management practices ("BMP") selected for the Site and a schedule for implementation.



- d. Within 45 days of the effective date of this Agreed Order, and with the proper approval from the local municipal separate storm water sewer authority, inspect all separate storm water drains and entry points throughout the Site, and submit the results of the inspections in accordance with Ordering Provision No. 2.e below.
- e. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a through 2.d. 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 fine 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:

Water Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

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.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Sullivan  
For the Executive Director

12/29/2008  
Date

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.

Bill Chudej  
Signature

10-22-08  
Date

BILL CHUDEJ  
Name (Printed or typed)  
Authorized Representative of  
Hereford Highway Properties, Ltd.

MANAGING PARTNER  
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.

MEMORANDUM FOR THE RECORD

DATE: 10/15/54

TO: SAC, NEW YORK

FROM: SA [Name], NEW YORK

RE: [Subject Name], [Address], [City], [State]

[Detailed typed report text, including observations and findings]

10-54-01

[Signature]

[Typed name]

[Typed name and title]

[Final typed text or footer]