

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-0440-WQ-E **TCEQ ID:** RN101669026 **CASE NO.:** 37373  
**RESPONDENT NAME:** Nanu Patel

<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> Budgetel Inn and Suites, 1259 North Market Street, Hearne, Robertson County</p> <p><b>TYPE OF OPERATION:</b> Construction site for a motel</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 29, 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. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493;  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Nanu Patel, Owner, Budgetel Inn and Suites, P.O. Box 729, Centerville, Texas 75866  Mr. Bharat N. Desai, Manager, Budgetel Inn and Suites, P.O. Box 729, Centerville, Texas 75866  <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 type="checkbox"/> Complaint  <input checked="" 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> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 8, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 18, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>Failure to obtain authorization to discharge storm water associated with construction activity. Specifically, the Respondent began construction on the Site prior to preparing and implementing a storm water pollution prevention plan and posting a construction site notice [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p>	<p><b>Total Assessed:</b> \$4,356</p> <p><b>Total Deferred:</b> \$871  <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> \$3,485</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. Within 30 days after the effective date of this Agreed Order, ensure that final stabilization of the Site has been established by having a uniform, evenly distributed perennial vegetative covering of at least 70% of the native background vegetative cover for the area on all unpaved areas and areas not covered by permanent structures; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 0



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	23-Feb-2009	<b>PCW</b>	17-Apr-2009	<b>Screening</b>	25-Mar-2009	<b>EPA Due</b>	
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Nanu Patel
<b>Reg. Ent. Ref. No.</b>	RN101669026
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37373	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0440-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Pamela Campbell
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000
		<b>EC's Team</b>	Enforcement Team 1

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$300
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**Notes** The Respondent has two NOV's for the same violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$1,056  
 Approx. Cost of Compliance \$1,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	32.0%	<b>Adjustment</b>	\$1,056
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Enhancement recommended to capture avoided costs associated with the violation.

<b>Final Penalty Amount</b>	\$4,356
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,356
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$871
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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>	\$3,485
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**Screening Date** 25-Mar-2009

**Docket No.** 2009-0440-WQ-E

**PCW**

**Respondent** Nanu Patel

Policy Revision 2 (September 2002)

**Case ID No.** 37373

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101669026

**Media [Statute]** Water Quality

**Enf. Coordinator** Pamela Campbell

**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)	2	10%
	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 10%

>> **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**

The Respondent has two NOVs for the same violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

<b>Screening Date</b> 25-Mar-2009	<b>Docket No.</b> 2009-0440-WQ-E	<b>PCW</b>	
<b>Respondent</b> Nanu Patel		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 37373		<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101669026			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Pamela Campbell			
<b>Violation Number</b>	1		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)		
<b>Violation Description</b>	Failed to obtain authorization to discharge storm water associated with construction activity, as documented during the January 8, 2009 investigation. Specifically, the Respondent began construction on the Site prior to preparing and implementing a storm water pollution prevention plan and posting a construction site notice.		
	<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="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	0%
<b>&gt;&gt; Programmatic Matrix</b>			
	<b>Falsification</b>	Major      Moderate      Minor	
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="text"/>
		<b>Percent</b>	10%
<b>Matrix Notes</b>	100% of the rule requirement was not meet.		
	<b>Adjustment</b>	\$9,000	
			\$1,000
<b>Violation Events</b>			
	Number of Violation Events	3	Number of violation days
		76	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input checked="" type="checkbox"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
		<b>Violation Base Penalty</b>	\$3,000
Three monthly events are recommended from the investigation date (January 8, 2009) to the screening date (March 25, 2009).			
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		Before NOV      NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>
	Ordinary	<input type="text"/>	<input type="text"/>
	N/A	<input checked="" type="checkbox"/>	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
		<b>Violation Subtotal</b>	\$3,000
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
	Estimated EB Amount	\$1,056	Violation Final Penalty Total
			\$4,356
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
			\$4,356

## Economic Benefit Worksheet

**Respondent:** Nanu Patel  
**Case ID No.:** 37373  
**Reg. Ent. Reference No.:** RN101669026  
**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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### 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]	\$1,000	8-Jan-2009	25-Mar-2009	1.13	\$56	\$1,000	\$1,056
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs that were avoided by failing to implement a Storm Water Pollution Prevention Plan and failing to prepare and post a construction site notice. The date required is the date of the initial investigation.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,056

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603355686    PATEL, NANU	Classification: AVERAGE	Rating: 2.67
Regulated Entity:	RN101669026    BUDGETEL INN AND SUITES	Classification: AVERAGE	Site Rating: 2.67
<hr/>			
ID Number(s):	_____		
Location:	1259 N MARKET ST, HEARNE, TX, 77859		
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TCEQ Region:	REGION 09 - WACO		
<hr/>			
Date Compliance History Prepared:	March 24, 2009		
<hr/>			
Agency Decision Requiring Compliance History:	Enforcement		
<hr/>			
Compliance Period:	March 24, 2004 to March 24, 2009		
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TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Pamela Campbell Phone: 239 - 4493

### 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)?  | _____ |
| 5. When did the change(s) in ownership occur?  | N/A   |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO   |       |

### 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 | 04/15/2008 | (640740) |
| 2 | 08/01/2008 | (685554) |
| 3 | 09/18/2008 | (702012) |
| 4 | 10/23/2008 | (705350) |
| 5 | 02/16/2009 | (723193) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |          |                 |          |
|--------------|---|----------|-----------------|----------|
| Date:        | 04/11/2008  | (640740) |                 |          |
| Self Report? | NO  |          | Classification: | Minor    |
| Citation:    | 30 TAC Chapter 281, SubChapter A 281.25(a)(4)<br>CGP; Part II; Section D(2)(b&c) PERMIT   |          |                 |          |
| Description: | Failure to post a completed construction site notice.   |          |                 |          |
| Self Report? | NO  |          | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 281, SubChapter A 281.25(a)(4)<br>CGP; Part II; Section D(2)(a) PERMIT   |          |                 |          |
| Description: | Failure to develop and implement a storm water pollution prevention plan (SWP3) according to the provisions of the Construction General Permit (CGP) for Storm Water. |          |                 |          |
| Date:        | 06/10/2008  | (670879) |                 |          |
| Self Report? | NO  |          | Classification: | Minor    |
| Citation:    | 30 TAC Chapter 281, SubChapter A 281.25(a)(4)   |          |                 |          |

Description: CGP;Part II; Section D(2)(b&c) PERMIT  
Failure to post a completed construction site notice.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
CGP; Part II; Section D(2)(a) PERMIT  
Description: Failure to develop and implement a storm water pollution prevention plan (SWP3)  
according to the provisions of the Construction General Permit (CGP) for Storm  
Water.

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  
NANU PATEL  
RN101669026**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-0440-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 Nanu Patel ("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 construction site for a motel located at 1259 North Market Street in Hearne, Robertson 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 February 23, 2009.
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 Four Thousand Three Hundred Fifty-Six Dollars (\$4,356) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Four Hundred Eighty-Five Dollars

(\$3,485) of the administrative penalty and Eight Hundred Seventy-One Dollars (\$871) 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 failed to obtain authorization to discharge storm water associated with construction activity, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on January 8, 2009. Specifically, the Respondent began construction on the Site prior to preparing and implementing a storm water pollution prevention plan and posting a construction site notice.

## 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: Nanu Patel, Docket No. 2009-0440-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. Within 30 days after the effective date of this Agreed Order, ensure that final stabilization of the Site has been established by having a uniform, evenly distributed perennial vegetative covering of at least 70% of the native background vegetative cover for the area on all unpaved areas and areas not covered by permanent structures; and
  - b. Within 45 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. 2.a. 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:

Water Section, Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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 Swollen  
For the Executive Director

6/23/2009  
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.

Bharat Desai  
Signature

04-29-09  
Date

Bharat Desai  
Name (Printed or typed)  
Authorized Representative of  
Nanu Patel

Manager  
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.

