

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-0329-WQ-E TCEQ ID RN105644710 CASE NO. 37260
RESPONDENT NAME: RAJ CONSTRUCTION LLC

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

SITE WHERE VIOLATION OCCURRED: 1581 Highway 380 Bypass, Graham, Young County

TYPE OF OPERATION: General contractor on the construction site of a hotel

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired January 4, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492

TCEQ Regional Contact: Mr. Clifford Moore, Abilene Regional Office, MC R-3, (325) 698-6115

Respondent: Mr. Rajinder Kaur, Registered Agent and Managing Member, RAJ Construction LLC, 438 Cave River Drive, Murphy, Texas 75094

Respondent's Attorney: Mr. Thomas J. Irons, Attorney, 17950 Preston Road, Suite 650, Dallas, Texas 75252

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 20, 2009</p> <p>Date of NOE Relating to this Case: February 27, 2009</p> <p>Background Facts: The EDP RP was filed on July 10, 2009. The Respondent's attorney filed an answer and the case was referred to SOAH. On September 25, 2009, the TCEQ Chief Clerk mailed to the Respondent and Respondent's attorney notice of the preliminary hearing scheduled for October 29, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," the Respondent received notice of the hearing on September 26, 2009, and the Respondent's attorney received notice of the hearing on September 28, 2009, as evidenced by the signatures on the cards. On October 29, 2009, the ALJ convened the preliminary hearing, but neither the Respondent nor his attorney appeared. The ED requested that the matter be remanded back to the ED and dismissed from the SOAH docket so that a Default Order may be entered.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance.</p> <p>WQ: Failed to obtain authorization to discharge storm water associated with construction activity [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c)].</p>	<p>Total Assessed: \$1,050</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$1,050</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 15 days, post a construction site notice at the Site. 2. Within 30 days, develop and implement a Storm Water Pollution Prevention Plan in accordance with the requirements for a general permit for construction activity (Texas Pollutant Discharge Elimination System Construction General Permit No. TXR150000). 3. Within 45 days, submit written certification demonstrating compliance.

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ DATES	Assigned	3-Mar-2009	Screening	5-Mar-2009	EPA Due	
	PCW	11-Jun-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	RAJ Construction LLC		
Reg. Ent. Ref. No.	RN105644710		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37260	No. of Violations	1
Docket No.	2009-0329-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1		\$1,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$50
Notes	There was one NOV for same or similar violations during the previous five years.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$79	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$2,000		
SUM OF SUBTOTALS 1-7	Final Subtotal		\$1,050
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
	Final Penalty Amount		\$1,050
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$1,050
DEFERRAL	0.0% Reduction	Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral not offered for non-expedited settlement.		
PAYABLE PENALTY			\$1,050

Screening Date 5-Mar-2009

Docket No. 2009-0329-WQ-E

PCW

Respondent RAJ Construction LLC

Policy Revision 2 (September 2002)

Case ID No. 37260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105644710

Media [Statute] Water Quality

Enf. Coordinator Michael Meyer

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)	1	5%
	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) 5%

>> **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

There was one NOV for same or similar violations during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

<p>Screening Date 5-Mar-2009 Respondent RAJ Construction LLC Case ID No. 37260 Reg. Ent. Reference No. RN105644710 Media [Statute] Water Quality Enf. Coordinator Michael Meyer Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c) Violation Description Failed to obtain authorization to discharge storm water associated with construction activity, as documented during a record review conducted on February 20, 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.</p>	<p style="text-align: right;">Docket No. 2009-0329-WQ-E</p> <p style="text-align: right;">PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></p>																			
Base Penalty \$10,000																				
>> Environmental, Property and Human Health Matrix																				
<p>OR</p> <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</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></td> <td></td> <td></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual				Percent <input type="text" value="0%"/>	Potential				
	Harm																			
Release	Major	Moderate	Minor																	
Actual				Percent <input type="text" value="0%"/>																
Potential																				
>> Programmatic Matrix																				
<table border="1" style="margin-left: 20px;"> <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></td> <td></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> </table> <p>Matrix Notes 100 percent of the rule requirement was not met.</p>		Major	Moderate	Minor		Falsification	x			Percent <input type="text" value="10%"/>	Adjustment \$9,000									
	Major	Moderate	Minor																	
Falsification	x			Percent <input type="text" value="10%"/>																
\$1,000																				
Violation Events																				
<p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="13"/> Number of violation days</p> <table border="1" style="margin-left: 20px;"> <tr> <td style="width: 50px;">daily</td> <td><input type="text"/></td> </tr> <tr> <td>weekly</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td style="text-align: center;">x</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"/></td> </tr> </table> <p><i>mark only one with an x</i></p>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty \$1,000					
daily	<input type="text"/>																			
weekly	<input type="text"/>																			
monthly	x																			
quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	<input type="text"/>																			
One monthly event is recommended from the February 20, 2009 record review to the March 5, 2009 screening date.																				
Good Faith Efforts to Comply																				
<table border="1" style="margin-left: 20px;"> <tr> <td></td> <td colspan="2" style="text-align: center;">0.0% Reduction</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDRP/Settlement Offer</td> <td></td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="3" style="vertical-align: middle;">Violation Subtotal \$1,000</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> </table> <p>Notes: The Respondent does not meet the good faith criteria for this violation.</p>		0.0% Reduction				Before NOV	NOV to EDRP/Settlement Offer		Extraordinary	<input type="text"/>	<input type="text"/>	Violation Subtotal \$1,000	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)		
	0.0% Reduction																			
	Before NOV	NOV to EDRP/Settlement Offer																		
Extraordinary	<input type="text"/>	<input type="text"/>	Violation Subtotal \$1,000																	
Ordinary	<input type="text"/>	<input type="text"/>																		
N/A	x	(mark with x)																		
Economic Benefit (EB) for this violation																				
<p>Estimated EB Amount <input type="text" value="\$79"/></p>	<p>Statutory Limit Test</p> <p>Violation Final Penalty Total <input type="text" value="\$1,050"/></p> <p>This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,050"/></p>																			

Economic Benefit Worksheet

Respondent RAJ Construction LLC
Case ID No. 37260
Reg. Ent. Reference No. RN105644710
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	20-Feb-2009	15-Sep-2009	0.57	\$4	\$76	\$79
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

The estimated cost to implement a storm water pollution prevention plan and prepare and post a site notice. The Date Required is the February 20, 2009 record review and the Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
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	\$2,000	TOTAL	\$79
-----------------------------------	---------	--------------	------

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603421017	RAJ Construction LLC	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105644710	RAJ CONSTRUCTION HOLIDAY INN EXPRESS GRAHAM	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	_____			
Location:	1581 HIGHWAY 380 BYP, GRAHAM, TX, 76450			
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	March 08, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 07, 2004 to March 06, 2009			

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

Name: Michael Meyer Phone: 239 - 4492

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	11/18/2008	(708106)
2	12/22/2008	(721867)
3	02/27/2009	(736300)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	11/19/2008	(708106)	
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) 40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)		
Description:	Failure to obtain authorization to discharge storm water associated with construction activities to water in the state through an individual permit or the Construction General Permit (CGP) issued under the Texas Pollutant Discharge Elimination System (TPDES).		
 - 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
RAJ CONSTRUCTION LLC;
RN105644710

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2009-0329-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is RAJ Construction LLC ("RAJ Construction").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. RAJ Construction operates as a general contractor on the construction site of a hotel located at 1581 Highway 380 Bypass, Graham, Young County, Texas (the "Site").
2. The Site has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During a record review investigation conducted on February 20, 2009, a TCEQ Abilene Regional Office investigator documented that RAJ Construction failed to obtain authorization to discharge storm water associated with construction activity. Specifically, RAJ Construction began construction on the Site prior to preparing and implementing a storm water pollution prevention plan and posting a construction site notice.
4. RAJ Construction received notice of the violation on or about March 4, 2009.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of RAJ Construction LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on July 10, 2009.
6. By letter dated July 10, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served RAJ Construction with notice of the EDPRP. According to the return receipt "green card," RAJ Construction received notice of the EDPRP on July 15, 2009, as evidenced by the signature on the card.
7. RAJ Construction, through its attorney, filed an answer requesting a hearing on July 31, 2009, and, pursuant to 30 TEX. ADMIN. CODE § 70.109, the matter was referred to the State Office of Administrative Hearings ("SOAH") on September 1, 2009.
8. On September 25, 2009, the TCEQ Chief Clerk mailed the Notice of the October 29, 2009, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid, to RAJ Construction and its attorney. According to the return receipt "green card," RAJ Construction received notice of the October 29, 2009, preliminary hearing on September 26, 2009, and RAJ Construction's attorney received notice of the preliminary hearing on September 28, 2009, as evidenced by the signature on the cards.
9. On October 29, 2009, the Administrative Law Judge ("ALJ") convened the preliminary hearing, but RAJ Construction failed to appear. The ALJ made a finding that RAJ Construction was served with proper notice of the preliminary hearing, and the Executive Director requested that the matter be remanded to the Executive Director so that a Default Order may be entered and the case may be dismissed from the SOAH Docket.
10. The ALJ remanded the case by SOAH Order No. 1, Granting Motion to Dismiss and Remand, on October 29, 2009, so that TCEQ may dispose of the case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, RAJ Construction is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, RAJ Construction 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 C.F.R. § 122.26(c).

3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served RAJ Construction with proper notice of the EDP RP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, RAJ Construction filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 8, RAJ Construction was provided proper notice of the preliminary hearing pursuant to TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE § 155.501(c) and (e)(2), and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.425, 70.104, and 80.6(b)(3).
6. As evidenced by Finding of Fact No. 9, RAJ Construction failed to appear for the preliminary hearing. Pursuant to TEX. GOV'T CODE § 2001.056, TEX. WATER CODE § 7.057, 1 TEX. ADMIN. CODE § 155.501(e)(1)(A), and 30 TEX. ADMIN. CODE § 70.106(b), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against RAJ Construction and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against RAJ Construction for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. RAJ Construction is assessed an administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and RAJ Construction's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this

action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: RAJ Construction LLC; Docket No. 2009-0329-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. RAJ Construction shall undertake the following technical requirements:
 - a. Within fifteen days after the effective date of this Order, RAJ Construction shall post a construction site notice at the Site.
 - b. Within thirty days after the effective date of this Order, RAJ Construction shall develop and implement a Storm Water Pollution Prevention Plan in accordance with the requirements for a general permit for construction activity (Texas Pollutant Discharge Elimination System Construction General Permit No. TXR150000).
 - c. Within forty-five days after the effective date of this Order, RAJ Construction shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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."

RAJ Construction shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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:

Clifford Moore, Water Section Manager
Texas Commission on Environmental Quality
Abilene Regional Office
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon RAJ Construction. RAJ Construction is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If RAJ Construction fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, RAJ Construction's failure to comply is not a violation of this Order. RAJ Construction shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. RAJ Construction shall notify the Executive Director within seven days after RAJ Construction becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by RAJ Construction shall be made in writing to the Executive Director. Extensions are not effective until RAJ Construction receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to RAJ Construction if the Executive Director determines that RAJ Construction has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of RAJ Construction LLC” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 10, 2009.

The EDPRP was mailed to RAJ Construction at its last known address on July 10, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” RAJ Construction received notice of the EDPRP on July 15, 2009, as evidenced by the signature on the card.

RAJ Construction, through its attorney, filed an answer requesting a hearing on July 31, 2009, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on September 1, 2009. Notice of the October 29, 2009, preliminary hearing was mailed to RAJ Construction and its attorney by the TCEQ Chief Clerk on September 25, 2009.

The Notice was sent to RAJ Construction via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” RAJ Construction received the Notice of the Preliminary Hearing on September 26, 2009, and RAJ Construction’s attorney received the Notice of the Preliminary Hearing on September 29, 2009.

RAJ Construction failed to appear at the preliminary hearing on October 29, 2009. At that hearing, I requested, and later received, a finding that RAJ Construction was served with proper notice of the hearing pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(2). I also requested, and later received, a remand from the Administrative Law Judge pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(1), which gives an ALJ the authority to remand the case back to the agency “to allow the agency to dispose of the case on a default basis under TEX. GOV’T CODE § 2001.056 and the referring agency’s rules.” Pursuant to TEX. GOV’T CODE § 2001.056, TEX. WATER CODE § 7.057, and 30 TEX. ADMIN. CODE § 70.106(b), the Commission may enter a Default Order against RAJ Construction and assess the penalty recommended by the Executive Director.”

Stephanie J. Frazee

Stephanie J. Frazee, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 10th day of November, A.D., 2009.

Rochelle D. Collins
Notary Signature

