

**Executive Summary – Enforcement Matter – Case No. 48614
Haney Sitework and Paving LLP
RN107069528
Docket No. 2014-0620-MLM-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - EAQ, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Excavation Site on Ammann Road, located northeast of the intersection of Ammann Road and Georg Oaks Road, Bulverde, Comal County

Type of Operation:

Aggregate production operation

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: September 5, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$28,438

Amount Deferred for Expedited Settlement: \$5,687

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$701

Total Due to General Revenue: \$22,050

Payment Plan: 35 payments of \$630 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: Yes – EAQ

Major Source: No - WQ

Statutory Limit Adjustment: \$4,550-WQ

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 48614
Haney Sitework and Paving LLP
RN107069528
Docket No. 2014-0620-MLM-E

Investigation Information

Complaint Date(s): January 2, 2014

Complaint Information: Alleged that a new quarrying activity commenced and that the proper permits had not been obtained. The complainant stated that the quarrying work was being conducted quickly so that it was completed before it was noticed anything was wrong.

Date(s) of Investigation: January 9, 2014 through March 19, 2014

Date(s) of NOE(s): April 15, 2014

Violation Information

1. Failed to register the Site as an aggregate production operation prior to commencing regulated activities. Specifically, the Respondent was extracting and transporting soil from the Site and depositing the soil at a construction site located on the southeast corner of the intersection of Keeneland Drive and Battle Intense in Fair Oaks Ranch, Texas [30 TEX. ADMIN. CODE § 342.25(b)].
2. Failed to obtain approval of a Water Pollution Abatement Plan (“WPAP”) prior to commencing regulated activities over the Edwards Aquifer Recharge Zone. Specifically, an estimated 28-acre project was commenced without prior authorization [30 TEX. ADMIN. CODE § 213.4(a)(1)].
3. Failed to obtain authorization to discharge stormwater associated with construction activities under Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXR150000. Specifically, the Respondent was performing construction activities prior to obtaining authorization [30 TEX. ADMIN. CODE § 281.25(a)(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On January 7, 2014, obtained authorization to discharge stormwater associated with construction activities under the TPDES General Permit TXR150000;
- b. On June 17, 2014, registered the Site as an aggregate production operation; and
- c. On June 23, 2014, submitted a WPAP under Edwards Aquifer Protection Program.

Executive Summary – Enforcement Matter – Case No. 48614
Haney Sitework and Paving LLP
RN107069528
Docket No. 2014-0620-MLM-E

Technical Requirements:

The Order will require the Respondent to:

a. Immediately:

i. Cease any regulated activity at the Site until such time that an Edwards Aquifer WPAP has been reviewed and approved by the TCEQ Regional Office; and

ii. Respond completely and adequately to all requests for additional information concerning the Edwards Aquifer WPAP application within 30 days after the date of such requests, or by any other deadline specified in writing.

b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.i.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alejandro Laje, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2547; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Clinton J. Haney, Partner, Haney Sitework and Paving LLP, 30230
Twin Ridge Drive, Bulverde, Texas 78163

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	22-Apr-2014	Screening	25-Apr-2014	EPA Due	
	PCW	1-Jul-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Haney Sitework and Paving LLP				
Reg. Ent. Ref. No.	RN107069528				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	48614	No. of Violations	1		
Docket No.	2014-0620-MLM-E	Order Type	1660		
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No		
Multi-Media	Edwards Aquifer	Enf. Coordinator	Alejandro Laje		
		EC's Team	Enforcement Team 3		
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$10,000	Violation Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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** **-\$50**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts: \$6
 Approx. Cost of Compliance: \$450
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$450**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$450**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,000**

Notes: The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,000**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$4,000**

Screening Date 25-Apr-2014

Docket No. 2014-0620-MLM-E

PCW

Respondent Haney Sitework and Paving LLP

Policy Revision 4 (April 2014)

Case ID No. 48614

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107069528

Media [Statute] Aggregate Production Operation

Enf. Coordinator Alejandro Laje

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 25-Apr-2014

Docket No. 2014-0620-MLM-E

PCW

Respondent Haney Sitework and Paving LLP

Policy Revision 4 (April 2014)

Case ID No. 48614

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107069528

Media [Statute] Aggregate Production Operation

Enf. Coordinator Alejandro Laje

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25(b)

Violation Description

Failed to register the Site as an aggregate production operation prior to commencing regulated activities, as documented during an investigation conducted from January 9, 2014 through March 19, 2014. Specifically, the Respondent was extracting and transporting soil from the Site and depositing the soil at a construction site located on the southeast corner of the intersection of Keeneland Drive and Battle Intense in Fair Oaks Ranch, Texas.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,500.00

\$500

Violation Events

Number of Violation Events 1

37 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$50

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

Notes

The Site was registered as an aggregate production operation on June 17, 2014.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5.55

Violation Final Penalty Total \$450

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Haney Sitework and Paving LLP
Case ID No. 48614
Reg. Ent. Reference No. RN107069528
Media Aggregate Production Operation
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
<small>No commas or \$</small>							

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	\$450	19-Mar-2014	17-Jun-2014	0.25	\$6	n/a	\$6
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register as an aggregate production operation. The date required is the investigation end date and final date is the date the Site was registered as an aggregate production operation.

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	\$450	TOTAL	\$6
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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned PCW	22-Apr-2014	Screening	25-Apr-2014	EPA Due	
		1-Jul-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	Haney Sitework and Paving LLP
Reg. Ent. Ref. No.	RN107069528
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	48614	No. of Violations	1
Docket No.	2014-0620-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Edwards Aquifer	Enf. Coordinator	Alejandro Laje
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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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.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$312
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2
Approx. Cost of Compliance	\$2,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$938
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$938
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$938
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DEFERRAL	20.0% Reduction	Adjustment	-\$187
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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.

PAYABLE PENALTY	\$751
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Screening Date 25-Apr-2014

Docket No. 2014-0620-MLM-E

PCW

Respondent Haney Sitework and Paving LLP

Policy Revision 4 (April 2014)

Case ID No. 48614

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107069528

Media [Statute] Water Quality

Enf. Coordinator Alejandro Laje

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 25-Apr-2014

Docket No. 2014-0620-MLM-E

PCW

Respondent Haney Sitework and Paving LLP

Policy Revision 4 (April 2014)

Case ID No. 48614

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107069528

Media [Statute] Water Quality

Enf. Coordinator Alejandro Laje

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4)

Violation Description Failed to obtain authorization to discharge stormwater associated with construction activities, as documented during an investigation conducted from January 9, 2014 through March 19, 2014. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR150000.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 8

Table for event frequency: daily, weekly, monthly (checked), quarterly, semiannual, annual, single event.

Violation Base Penalty \$1,250

One monthly event is recommended from the date construction commenced (December 30, 2013) to the date of compliance (January 7, 2014).

Good Faith Efforts to Comply

25.0% Reduction

\$312

Table for Good Faith Efforts: Extraordinary, Ordinary (checked), N/A.

Notes The Respondent returned to compliance by January 7, 2014.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$938

This violation Final Assessed Penalty (adjusted for limits) \$938

Economic Benefit Worksheet

Respondent Haney Sitework and Paving LLP
Case ID No. 48614
Reg. Ent. Reference No. RN107069528
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
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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				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	\$2,000	30-Dec-2013	7-Jan-2014	0.02	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit to discharge stormwater, including developing and implementing a stormwater pollution prevention plan. Date required is the date construction commenced and final date is the 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	\$2,000	TOTAL	\$2
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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	22-Apr-2014	Screening	25-Apr-2014	EPA Due	
	PCW	1-Jul-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Haney Sitework and Paving LLP		
Reg. Ent. Ref. No.	RN107069528		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48614	No. of Violations	1
Docket No.	2014-0620-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Alejandro Laje
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$22,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment for compliance history.

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	\$278
Approx. Cost of Compliance	\$6,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$22,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$22,500

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$22,500

DEFERRAL 20.0% Reduction **Adjustment** -\$4,500

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$18,000

Screening Date 25-Apr-2014

Docket No. 2014-0620-MLM-E

PCW

Respondent Haney Sitework and Paving LLP

Policy Revision 4 (April 2014)

Case ID No. 48614

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107069528

Media [Statute] Edwards Aquifer

Enf. Coordinator Alejandro Laje

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 25-Apr-2014

Docket No. 2014-0620-MLM-E

PCW

Respondent Haney Sitework and Paving LLP

Policy Revision 4 (April 2014)

Case ID No. 48614

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107069528

Media [Statute] Edwards Aquifer

Enf. Coordinator Alejandro Laje

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 213.4(a)(1)

Violation Description

Failed to obtain approval of a Water Pollution Abatement Plan ("WPAP") prior to commencing regulated activities over the Edwards Aquifer Recharge Zone, as documented during an investigation conducted from January 9, 2014 through March 19, 2014. Specifically, an estimated 28-acre project was commenced without prior authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 6

37 Number of violation days

daily	
weekly	X
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$22,500

Six weekly events are recommended from the investigation end date (March 19, 2014) to the screening date (April 25, 2014).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$278

Violation Final Penalty Total \$22,500

This violation Final Assessed Penalty (adjusted for limits) \$22,500

Economic Benefit Worksheet

Respondent Haney Sitework and Paving LLP
Case ID No. 48614
Reg. Ent. Reference No. RN107069528
Media Edwards Aquifer
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
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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	\$6,500	19-Mar-2014	25-Jan-2015	0.85	\$278	n/a	\$278
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an Edwards Aquifer WPAP and obtain approval. Date required is the investigation end date and 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

\$6,500

TOTAL

\$278

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604282111, RN107069528, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN604282111, Haney Sitework and Paving LLP **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN107069528, EXCAVATION SITE ON AMMANN ROAD **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 09 - Construction

Location: NORTHEAST OF THE INTERSECTION OF AMMANN ROAD AND GEORG OAKS ROAD IN BULVERDE, COMAL COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):
EDWARDS AQUIFER PERMIT 13-14011003 **STORMWATER PERMIT** TXR15ZA48

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: April 25, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 25, 2009 to April 25, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Alejandro Laje **Phone:** (512) 239-2547

Site and Owner/Operator History:

- 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/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

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.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HANEY SITEWORK AND
PAVING LLP
RN107069528**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0620-MLM-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Haney Sitework and Paving LLP ("Respondent") under the authority of TEX. WATER CODE chs. 7, 26 and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party, as defined in TEX. WATER CODE § 28A.001(6), (5), and (4), because the Respondent is an owner and operator of an aggregate production operation located northeast of the intersection of Ammann Road and Georg Oaks Road in Bulverde, Comal County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an aggregate production operation as defined in TEX. WATER CODE § 28A.001(1).
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 Executive Director 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 April 17, 2014.

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 Twenty-Eight Thousand Four Hundred Thirty-Eight Dollars (\$28,438) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred One Dollars (\$701) of the administrative penalty and Five Thousand Six Hundred Eighty-Seven Dollars (\$5,687) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty-Two Thousand Fifty Dollars (\$22,050) of the administrative penalty shall be payable in 35 monthly payments of Six Hundred Thirty-One Dollars (\$630) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On January 7, 2014, obtained authorization to discharge stormwater associated with construction activities under the Texas Pollutant Discharge Elimination System ("TPDES") General Permit TXR150000;
 - b. On June 17, 2014, registered the Site as an aggregate production operation; and
 - c. On June 23, 2014, submitted a Water Pollution Abatement Plan ("WPAP") under Edwards Aquifer Protection Program.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to register the Site as an aggregate production operation prior to commencing regulated activities, in violation of 30 TEX. ADMIN. CODE § 342.25(b), as documented during an investigation conducted from January 9, 2014 through March 19, 2014. Specifically, the Respondent was extracting and transporting soil from the Site and depositing the soil at a construction site located on the southeast corner of the intersection of Keeneland Drive and Battle Intense in Fair Oaks Ranch, Texas.
2. Failed to obtain approval of a WPAP prior to commencing regulated activities over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1), as documented during an investigation conducted from January 9, 2014 through March 19, 2014. Specifically, an estimated 28-acre project was commenced without prior authorization.
3. Failed to obtain authorization to discharge stormwater associated with construction activities under TPDES General Permit No. TXR150000, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted from January 9, 2014 through March 19, 2014. Specifically, the Respondent was performing construction activities prior to obtaining authorization.

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: Haney Sitework and Paving LLP, Docket No. 2014-0620-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order:
 - i. Cease any regulated activity at the Site until such time that an Edwards Aquifer WPAP has been reviewed and approved by the TCEQ Regional Office; and
 - ii. Respond completely and adequately to all requests for additional information concerning the Edwards Aquifer WPAP application within 30 days after the date of such requests, or by any other deadline specified in writing.
- 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.i. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

4/7/15
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.

Signature

11/5/14
Date

Clinton S. Haney
Name (Printed or typed)
Authorized Representative of
Haney Sitework and Paving LLP

Partner
Title

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