

**Executive Summary – Enforcement Matter – Case No. 48748**  
**PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION**  
**RN107193724**  
**Docket No. 2014-0759-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

CR 113 - Copeland Pit, bordering County Road 113 with an entrance approximately 0.23 mile north of the intersection of County Road 119 and County Road 113, Bee 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: None

**Texas Register Publication Date:** October 3, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,375

**Amount Deferred for Expedited Settlement:** \$1,675

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,700

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** \$4,625

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** March 18, 2014

**Date(s) of NOE(s):** May 16, 2014

**Executive Summary – Enforcement Matter – Case No. 48748**  
**PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION**  
**RN107193724**  
**Docket No. 2014-0759-WQ-E**

***Violation Information***

1. Failed to register the Site as an aggregate production operation (“APO”) prior to commencing regulated activities by February 14, 2014 [30 TEX. ADMIN. CODE § 342.25].
2. Failed to obtain authorization to discharge stormwater runoff associated with industrial activities under Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following:

- a. On April 1, 2014, registered the Site as an APO; and
- b. One June 5, 2014, obtained a permit to discharge stormwater runoff.

**Technical Requirements:**

N/A

***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:** Jason Fraley, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2552; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Jason Tindol, President, TINDOL CONSTRUCTION, 2 Pebblebrook Court, Brownwood, Texas 76801

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	19-May-2014	<b>Screening</b>	29-May-2014	<b>EPA Due</b>	
	<b>PCW</b>	29-May-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION		
<b>Reg. Ent. Ref. No.</b>	RN107193724		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48748	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0759-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>	Jason Fraley
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

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

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 29-May-2014

Docket No. 2014-0759-WQ-E

PCW

Respondent PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION

Policy Revision 4 (April 2014)

Case ID No. 48748

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107193724

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

### 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)

#### >> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

#### >> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

Screening Date 29-May-2014

Docket No. 2014-0759-WQ-E

PCW

Respondent PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION

Policy Revision 4 (April 2014)

Case ID No. 48748

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107193724

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

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 stormwater runoff associated with industrial activities under Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050000, as documented during an investigation conducted on March 18, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3 72 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

Three monthly events are recommended from the date of the investigation, March 18, 2014, to the screening date, May 29, 2014.

Good Faith Efforts to Comply

10.0% Reduction

\$375

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

Notes The Respondent achieved compliance on June 5, 2014.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

# Economic Benefit Worksheet

**Respondent** PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION  
**Case ID No.** 48748  
**Reg. Ent. Reference No.** RN107193724  
**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	\$2,000	18-Mar-2014	5-Jun-2014	0.22	\$22	n/a	\$22
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit to discharge stormwater runoff, including developing and implementing a stormwater pollution prevention plan. Date required is the investigation date. Final date is the 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**

\$22



# Penalty Calculation Worksheet (PCW)

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	19-May-2014	<b>Screening</b>	29-May-2014	<b>EPA Due</b>	
	<b>PCW</b>	29-May-2014				

### RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION	
<b>Reg. Ent. Ref. No.</b>	RN107193724	
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b> Minor

### CASE INFORMATION

<b>Enf./Case ID No.</b>	48748	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0759-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Aggregate Production Operation	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jason Fraley
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$5,000	<b>Maximum</b>	\$10,000
		<b>Violation Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$500</b>
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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>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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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>	<b>-\$125</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$1
Approx. Cost of Compliance	\$450

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$375</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$375</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,000</b>
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Notes:

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

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$1,000</b>
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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>	<b>\$4,000</b>
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Screening Date 29-May-2014

Docket No. 2014-0759-WQ-E

PCW

Respondent PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION

Policy Revision 4 (April 2014)

Case ID No. 48748

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107193724

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jason Fraley

### 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)

Satisfactory Performer

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 29-May-2014

Docket No. 2014-0759-WQ-E

PCW

Respondent PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION

Policy Revision 4 (April 2014)

Case ID No. 48748

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107193724

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jason Fraley

Violation Number 1

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

Violation Description Failed to register the Site as an aggregate production operation ("APO") prior to commencing regulated activities, as documented during an investigation conducted on March 18, 2014.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

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

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 14

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$125

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

Notes The Respondent achieved compliance on April 1, 2014.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0.86

Violation Final Penalty Total \$375

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

## Economic Benefit Worksheet

**Respondent** PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION  
**Case ID No.** 48748  
**Reg. Ent. Reference No.** RN107193724  
**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
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	\$450	18-Mar-2014	1-Apr-2014	0.04	\$1	n/a	\$1
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to register as an APO. The date required is the investigation date. Final date is the 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	\$450	<b>TOTAL</b>	\$1
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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.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN603948266, RN107193724, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN603948266, PATRIOT DOZER SERVICE, L.L.C. **Classification:** SATISFACTORY **Rating:** 1.85

**Regulated Entity:** RN107193724, CR 113 - COPELAND PIT **Classification:** NOT APPLICABLE **Rating:** N/A

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

**CH Group:** 04 - Mining

**Location:** BORDERS COUNTY ROAD 113 WITH AN ENTRANCE APPROXIMATELY 0.23 MILE NORTH OF THE INTERSECTION OF COUNTY ROAD 119 AND COUNTY ROAD 113, BEE COUNTY, TEXAS

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):**

STORMWATER PERMIT TXR05CC81

AGGREGATES REGISTRATION AP0000845

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

**Date Compliance History Report Prepared:** May 27, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 27, 2009 to May 27, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jason Fraley

**Phone:** (512) 239-2552

**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  
PATRIOT DOZER SERVICE,  
L.L.C. DBA TINDOL  
CONSTRUCTION  
RN107193724**

**§           BEFORE THE  
§  
§  
§           TEXAS COMMISSION ON  
§  
§  
§           ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2014-0759-WQ -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 PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION (the "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) and (4), because the Respondent is an operator of an aggregate production operation that borders County Road 113 with an entrance approximately 0.23 mile north of the intersection of County Road 119 and County Road 113 in Bee 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 committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
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 or about May 19, 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 Eight Thousand Three Hundred Seventy-Five Dollars (\$8,375) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Seven Hundred Dollars (\$6,700) of the administrative penalty and One Thousand Six Hundred Seventy-Five Dollars (\$1,675) 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 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 implemented the following corrective actions at the Site:
  - a. On April 1, 2014, registered the Site as an aggregate production operation ("APO").
  - b. One June 5, 2014, obtained a permit to discharge stormwater runoff.
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 operator of the Site, the Respondent is alleged to have:

1. Failed to register the Site as an APO prior to commencing regulated activities, in violation of 30 TEX. ADMIN. CODE § 342.25, as documented during an investigation conducted on March 18, 2014.
2. Failed to obtain authorization to discharge stormwater runoff associated with industrial activities under Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050000, 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 March 18, 2014.

### 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: PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION, Docket No. 2014-0759-WQ-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. 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.
3. 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.
4. 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.

5. 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

        *Ramona*          
For the Executive Director

        6/22/15          
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.

        *Jason Tindel*          
Signature

        11/18/14          
Date

        Jason Tindel          
Name (Printed or typed)  
Authorized Representative of  
PATRIOT DOZER SERVICE, L.L.C. dba TINDOL CONSTRUCTION

        President          
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.