EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 49305
Joe Johnson and Frosty Farquhar d/b/a B & J Sand & Gravel
RN105807598
Docket No. 2014-1341-MLM-E

Order Type:
Agreed Order

Media:
WQ and APO

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
the northwest corner of the intersection of Reeder Street and Waco Street, approximately 0.5 mile west of Skyline Drive, Kingsland, Llano County

Type of Operation:
aggregate production operation

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: February 12, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: $13,750

Total Paid to General Revenue: $415

Total Due to General Revenue: $13,335
Payment Plan: 35 payments of $381 each

Compliance History Classifications:
Person/CN – Satisfactory (Joe Johnson); N/A (Frosty Farquhar)
Site/RN – High (Joe Johnson); N/A (Frosty Farquhar)

Major Source: No

Statutory Limit Adjustment: $9,550 upward adjustment (PCW 2)

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: July 22, 2014

Date(s) of NOV(s): N/A

Date(s) of NOE(s): August 27, 2014

Violation Information

1. Failed to maintain authorization to discharge storm water associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000 [40 C.F.R. § 122.26(c) and 30 TEX. ADMIN. CODE § 281.25(a)(4)].
2. Failed to immediately abate and contain a spill or discharge [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 327.5(a)].
3. Failed to register the Site as an APO by October 31, 2012 [30 TEX. ADMIN. CODE § 342.25(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Obtained an APO registration as of September 5, 2014.

Technical Requirements:

1. Within 30 days:
   a. Remediate all areas at the Site where stained soils are observed, including the removal and proper disposal of all affected soils; and
   b. Submit either a completed No Exposure Certification ("NEC") or Notice of Intent ("NOI"), plus applicable fees, to obtain authorization to discharge storm water associated with industrial activities at the Site under TPDES General Permit No. TXR050000.
2. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the NEC or NOI within 30 days after the date of such requests, or by any other deadline specified in writing by the TCEQ.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1a. and 1b.
4. Within 90 days, submit written certification demonstrating either that authorization to discharge storm water associated with industrial activities at the Site has been obtained, or that operations at the Site have ceased until proper authorization is obtained.

Litigation Information

Date Petition(s) Filed: May 29, 2015

Date Answer Filed: June 26, 2015

SOAH Referral Date: August 10, 2015

Hearing Date(s):
Preliminary hearing: September 17, 2015

Settlement Date: December 18, 2015

Contact Information

TCEQ Attorneys: Elizabeth Harkrider, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Larry Butler, Enforcement Division, (512) 239-2543

TCEQ Regional Contact: Carolyn Runyon, Austin Regional Office, (512) 339-2929

Respondent Contacts: Joe Johnson c/o Brad Shaw, P.O. Box 1164, Kingsland, Texas 78639; Frosty Farquhar, P.O. Box 1156, Kingsland, Texas 78639

Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK

Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014) *PCW Revision March 26, 2014*

DATES					
Assigned	2-Sep-2014				
PCW	13-Jan-2015	Screening	10-Sep-2014	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel		
Reg. Ent. Ref. No.	RN105807598		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	49305	No. of Violations	2
Docket No.	2014-1341-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Larry Butler
Multi-Media		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*	$3,750

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 Respondents do 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 $124
Estimated Cost of Compliance $2,500
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7	*Final Subtotal*	$3,750
OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0%	*Adjustment*	$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

	Final Penalty Amount	$3,750
STATUTORY LIMIT ADJUSTMENT	*Final Assessed Penalty*	$3,750
DEFERRAL 0.0% Reduction	*Adjustment*	$0

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	$3,750

Screening Date	10-Sep-2014	**Docket No.** 2014-1341-MLM-E	**PCW**
Respondent	Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel		*Policy Revision 4 (April 2014)*
Case ID No.	49305		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105807598		
Media [Statute]	Water Quality		
Enf. Coordinator	Larry Butler		

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

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	10-Sep-2014	**Docket No.** 2014-1341-MLM-E	**PCW**
Respondent	Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel		*Policy Revision 4 (April 2014)*
Case ID No.	49305		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105807598		
Media [Statute]	Water Quality		
Enf. Coordinator	Larry Butler		

Violation Number 1

Rule Cite(s) 40 Code of Federal Regulations § 122.26(c) and 30 Tex. Admin. Code § 281.25(a)(4)

Violation Description Failed to maintain authorization to discharge stormwater associated with industrial activities under a Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000, as documented during an investigation conducted on July 22, 2014.

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 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 2 — 50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

Two monthly events are recommended from the investigation date (July 22, 2014) to the screening date (September 10, 2014).

Good Faith Efforts to Comply

0.0 % — Reduction $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $102

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel
Case ID No. 49305
Reg. Ent. Reference No. RN105807598
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)				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	22-Jul-2014	29-Jul-2015	1.02	$102	n/a	$102
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated delayed cost to submit a completed No Exposure Certification for Stormwater Discharges associated with Industrial Activity under TPDES General Permit No. TXR050000 or to obtain authorization under TPDES General Permit No. TXR050000 to discharge stormwater associated with industrial activities. Date required is the investigation date. 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 $102

Screening Date	10-Sep-2014	**Docket No.**	2014-1341-MLM-E	**PCW**
Respondent	Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel			*Policy Revision 4 (April 2014)*
Case ID No.	49305			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105807598			
Media [Statute]	Air			
Enf. Coordinator	Larry Butler			

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 327.5(a)

Violation Description Failed to immediately abate and contain a spill or discharge, as documented during an investigation conducted on July 22, 2014. Specifically, approximately 50 square feet of soil had been stained by petroleum products.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or the environment as a result of the violation.

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 1 — 50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,250

One quarterly event is recommended from the investigation date (July 22, 2014) to the screening date (September 10, 2014).

Good Faith Efforts to Comply

0.0% — Reduction $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $1,250

Economic Benefit (EB) for this violation

Estimated EB Amount $22

Statutory Limit Test

Violation Final Penalty Total $1,250

This violation Final Assessed Penalty (adjusted for limits) $1,250

Economic Benefit Worksheet

Respondent Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel
Case ID No. 49305
Reg. Ent. Reference No. RN105807598
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$500	22-Jul-2014	14-Jun-2015	0.90	$22	n/a	$22

Notes for DELAYED costs: Estimated cost to remediate all areas at the Site where stained soils are observed and dispose of affected soils. Date required is the investigation date. 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 $500

TOTAL $22

Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014) *PCW Revision March 26, 2014*

DATES					
Assigned	2-Sep-2014				
PCW	13-Jan-2015	Screening	10-Sep-2014	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel		
Reg. Ent. Ref. No.	RN105807598		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	49305	No. of Violations	1
Docket No.	2014-1341-MLM-E	Order Type	1660
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Larry Butler
		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 Respondents do 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 $46
Estimated Cost of Compliance $500

**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* **$10,000**

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

DEFERRAL **0.0%** Reduction *Adjustment* **$0**

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **$10,000**

Screening Date	10-Sep-2014	**Docket No.**	2014-1341-MLM-E
Respondent	Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel		
Case ID No.	49305		
Reg. Ent. Reference No.	RN105807598		
Media [Statute]	Aggregate Production Operation		
Enf. Coordinator	Larry Butler		

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

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	10-Sep-2014	**Docket No.** 2014-1341-MLM-E	**PCW**
Respondent	Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel		*Policy Revision 4 (April 2014)*
Case ID No.	49305		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105807598		
Media [Statute]	Aggregate Production Operation		
Enf. Coordinator	Larry Butler		

Violation Number 1

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

Violation Description Failed to register the Site as an aggregate production operation ("APO") by October 31, 2012, as documented during an investigation conducted on July 22, 2014.

Base Penalty $10,000

>> 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 5.0%

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

Adjustment $9,500

$500

Violation Events

Number of Violation Events: 1

674 Number of violation days

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

10.0%

Reduction $50

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

Notes: The Respondents achieved compliance by September 5, 2014.

Violation Subtotal $450

Economic Benefit (EB) for this violation

Estimated EB Amount $46

Statutory Limit Test

Violation Final Penalty Total $450

This violation Final Assessed Penalty (adjusted for limits) $10,000

Economic Benefit Worksheet

Respondent Joe Johnson and Frosty Farquhar dba B & J Sand & Gravel
Case ID No. 49305
Reg. Ent. Reference No. RN105807598
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	$500	31-Oct-2012	5-Sep-2014	1.85	$46	n/a	$46
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to register as an APO. Date required is the date the registration was due. 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 $500

TOTAL $46

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

PENDING Compliance History Report for CN601213648, RN105807598, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN601213648, Johnson, Joe **Classification:** SATISFACTORY **Rating:** 0.50

Regulated Entity: RN105807598, B & J Sand & Gravel **Classification:** HIGH **Rating:** 0.00

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: At the northwest corner of the intersection of Reeder Street and Waco Street approximately 0.5 mile west of Skyline Drive in Kingsland, Llano County, Texas.

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: September 16, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 16, 2009 to September 16, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Larry Butler **Phone:** (512) 239-2543

Site and Owner/Operator History:

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/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

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 CN603711458, RN105807598, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603711458, Farquhar, Frosty R **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN105807598, B & J Sand & Gravel **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: At the northwest corner of the intersection of Reeder Street and Waco Street approximately 0.5 mile west of Skyline Drive in Kingsland, Llano County, Texas.

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 14, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 16, 2009 to September 16, 2014

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

Name: Larry Butler **Phone:** (512) 239-2543

Site and Owner/Operator History:

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/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 JOE JOHNSON AND FROSTY FARQUHAR DBA B & J SAND & GRAVEL; RN105807598	**§ § § § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-1341-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Joe Johnson and Frosty Farquhar d/b/a B & J Sand & Gravel ("Respondents") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents together stipulate that:

1. Respondents are responsible parties, as defined in TEX. WATER CODE § 28A.001(6), because they are considered an owner and/or operator, as defined in TEX. WATER CODE § 28A.001(4) and (5), of an aggregate production operation ("APO") located at the northwest corner of the intersection of Reeder Street and Waco Street approximately 0.5 mile west of Skyline Drive in Kingsland, Llano County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1). The Site is near or adjacent to water in the state, as defined in TEX. WATER CODE § 26.001(5).

2. The Executive Director and Respondents agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002 and 7.051 and that Respondents are subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 28A and 26 and the rules of the TCEQ.

3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

4. An administrative penalty in the amount of thirteen thousand seven hundred fifty dollars ($13,750.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid four hundred fifteen dollars ($415.00) of the penalty. The remaining amount of thirteen thousand three hundred thirty-five dollars ($13,335.00) shall be paid in thirty-five (35) monthly payments of three hundred eighty-one dollars ($381.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may 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, Respondents' failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondents to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondents agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.

6. 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 Respondents have not complied with one or more of the terms or conditions contained in this Order.

7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Executive Director recognizes that Respondents obtained an APO registration as of September 5, 2014.

II. ALLEGATIONS

1. During an investigation conducted on July 22, 2014, an investigator documented that Respondents:

   a. Failed to maintain authorization to discharge storm water associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000, in violation of 40 C.F.R. § 122.26(c) and 30 TEX. ADMIN. CODE § 281.25(a)(4);

   b. Failed to immediately abate and contain a spill or discharge, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 327.5(a). Specifically, approximately 50 square feet of soil had been stained by petroleum products; and

   c. Failed to register the Site as an APO by October 31, 2012, in violation of 30 TEX. ADMIN. CODE § 342.25(a).

III. DENIALS

Respondents generally deny each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondents' compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Joe Johnson and Frosty Farquhar d/b/a B & J Sand & Gravel, Docket No. 2014-1341-MLM-E" to:

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

2. Respondents shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Order:

      i. Remediate all areas at the Site where stained soils are observed, in accordance with 30 TEX. ADMIN. CODE § 327.5(a), including the removal and proper disposal of all affected soils; and

      ii. Submit either a completed No Exposure Certification ("NEC") or Notice of Intent ("NOI"), plus applicable fees, to obtain authorization to discharge storm water associated with industrial activities at the Site under TPDES General Permit No. TXR050000. The NEC and/or NOI and applicable fees shall be submitted to:

         Texas Commission on Environmental Quality
         Storm Water Processing Center, MC 228
         P.O. Box 13087
         Austin, Texas 78711-3087

         Or, the NEC and/or NOI and applicable fees may be submitted electronically at https://www3.tceq.texas.gov/steers/.

   b. Respondents shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the NEC or NOI within 30 days after the date of such requests, or by any other deadline specified in writing by the TCEQ.

   c. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision 2.e., to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii.

   d. Within 90 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision 2.e., demonstrating either that authorization to discharge storm water associated with industrial activities at the Site has been obtained, or that operations at the Site have ceased until proper authorization is obtained.

   e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondents, and shall include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

   The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

      Order Compliance Team
      Texas Commission on Environmental Quality
      Enforcement Division, MC 149A
      P.O. Box 13087
      Austin, Texas 78711-3087

   and:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
Mail Code R11
P.O. Box 13087
Austin TX 78711-3087

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.

5. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

6. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay

7. This Order, issued by the Commission, shall not be admissible against Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.

8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission — Date

For the Executive Director — Date: March 4, 2016

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Signature - Brad Shaw — Date: 12/18/2015
Power of Attorney for
Joe Johnson
P.O. Box 1164
Kingsland, Texas 78639

☐ *If mailing address has changed, please check this box and provide the new address below:*

Signature - Frosty Farquhar — Date: 12-18-15
P.O. Box 1156
Kingsland, Texas 78639

☐ *If mailing address has changed, please check this box and provide the new address below:*