Executive Summary – Enforcement Matter – Case No. 50390
Earth Haulers, Inc.
RN105327977
Docket No. 2015-0583-WQ-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
WQ
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Earth Materials Pit & Office, 1500 West Timberlake Street, Azle, Parker 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: December 25, 2015
Comments Received: No

Penalty Information

Total Penalty Assessed: $8,750
Amount Deferred for Expedited Settlement: $1,750
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $307
Total Due to General Revenue: $6,693
Payment Plan: 23 payments of $291 each
Supplemental Environmental Project ("SEP") Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Satisfactory
Site/RN - Unclassified
Major Source: No
Statutory Limit Adjustment: $4,625
Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50390
Earth Haulers, Inc.
RN105327977
Docket No. 2015-0583-WQ-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: January 26, 2015
Date(s) of NOE(s): April 3, 2015

Violation Information

1. Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued. Specifically, APO Registration No. AP0000645 expired on September 25, 2014 [30 TEX. ADMIN. CODE § 342.25(d)].

2. Failed to obtain authorization to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") 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 registered the Site under APO Registration No. AP0001143 on January 26, 2015.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Develop and begin implementing a Stormwater Pollution Prevention Plan ("SWP3") to comply with the requirements of TPDES General Permit No. TXR050000; and

ii. Submit a Notice of Intent ("NOI") and associated fees.

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application, SWP3, or NOI within 30 days after the date of such requests, or by any other deadline specified in writing.

c. Within 45 days, submit written certification of compliance that either authorization to discharge stormwater associated with industrial activities has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Executive Summary – Enforcement Matter – Case No. 50390
Earth Haulers, Inc.
RN105327977
Docket No. 2015-0583-WQ-E

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: Ronica Rodriguez, Enforcement Division, Enforcement Team 1, MC-169, (512) 239-2601; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Allen Tucker, President, Earth Haulers, Inc., 11500 Mosier Valley Road, Euless, Texas 76040
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
Assigned	6-Apr-2015					
PCW	15-Apr-2015	**Screening**	14-Apr-2015	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Earth Haulers, Inc.		
Reg. Ent. Ref. No.	RN105327977		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	50390	**No. of Violations**	1
Docket No.	2015-0583-WQ-E	**Order Type**	1660
Media Program(s)	Aggregate Production Operation	**Government/Non-Profit**	No
Multi-Media	Water Quality	**Enf. Coordinator**	Heather Brister
		EC's Team	Enforcement Team 1

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*: **-$125**

Economic Benefit — **0.0%** Enhancement* — *Subtotal 6*: **$0**

Total EB Amounts	$6
Estimated Cost of Compliance	$375

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$375**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: **$375**

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	14-Apr-2015	**Docket No.** 2015-0583-WQ-E	**PCW**
Respondent	Earth Haulers, Inc.		*Policy Revision 4 (April 2014)*
Case ID No.	50390		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105327977		
Media [Statute]	Aggregate Production Operation		
Enf. Coordinator	Heather Brister		

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 14-Apr-2015 **Docket No.** 2015-0583-WQ-E **PCW**

Respondent Earth Haulers, Inc.

Policy Revision 4 (April 2014)

Case ID No. 50390

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105327977

Media [Statute] Aggregate Production Operation

Enf. Coordinator Heather Brister

Violation Number 1

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

Violation Description Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued, as documented during an investigation conducted on January 26, 2015. Specifically, APO Registration No. AP0000645 expired on September 25, 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 — 123 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

25.0% Reduction $125

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

Notes: The Respondent achieved compliance on January 26, 2015.

Violation Subtotal $375

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $375

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

Economic Benefit Worksheet

Respondent Earth Haulers, Inc.
Case ID No. 50390
Reg. Ent. Reference No. RN105327977
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	$375	25-Sep-2014	26-Jan-2015	0.34	$6	n/a	$6
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to register the Site as an APO. Date required is the date the previous APO registration expired and 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 $375

TOTAL $6

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
Assigned	6-Apr-2015					
PCW	15-Apr-2015	**Screening**	14-Apr-2015	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Earth Haulers, Inc.		
Reg. Ent. Ref. No.	RN105327977		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	50390	**No. of Violations**	1
Docket No.	2015-0583-WQ-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	No
Multi-Media	Aggregate Production Operation	**Enf. Coordinator**	Heather Brister
		EC's Team	Enforcement Team 1

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 histroy.

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 $97
Estimated Cost of Compliance $2,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$3,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — *Adjustment*

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 **20.0%** Reduction — *Adjustment* **-$750**

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 **$3,000**

Screening Date 14-Apr-2015 **Docket No.** 2015-0583-WQ-E **PCW**

Respondent Earth Haulers, Inc. *Policy Revision 4 (April 2014)*

Case ID No. 50390 *PCW Revision March 26, 2014*

Reg. Ent. Reference No. RN105327977

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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 histroy.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 0%

Screening Date 14-Apr-2015 **Docket No.** 2015-0583-WQ-E **PCW**

Respondent Earth Haulers, Inc. *Policy Revision 4 (April 2014)*

Case ID No. 50390 *PCW Revision March 26, 2014*

Reg. Ent. Reference No. RN105327977

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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 associated with industrial activities under Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR050000, as documented during an investigation conducted January 26, 2015.

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 requirements were not met.

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 3 — 78 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 investigation date (January 26, 2015) to the screening date (April 14, 2015).

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

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $97

Statutory Limit Test

Violation Final Penalty Total $3,750

This violation Final Assessed Penalty (adjusted for limits) $3,750

Economic Benefit Worksheet

Respondent Earth Haulers, Inc.
Case ID No. 50390
Reg. Ent. Reference No. RN105327977
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	26-Jan-2015	16-Jan-2016	0.97	$97	n/a	$97
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost associated with preparing and submitting a Notice of Intent to obtain authorization and developing and implementing a stormwater pollution prevention plan. Date required is the investigation date and final date is the anticipated 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 $97

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 CN600604565, RN105327977, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600604565, Earth Haulers, Inc. **Classification:** SATISFACTORY **Rating:** 2.78

Regulated Entity: RN105327977, EARTH MATERIALS PIT & OFFICE **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 04 - Mining

Location: 1500 W TIMBERLAKE ST, AZLE, PARKER COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): **AGGREGATES REGISTRATION** AP0001143

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

Date Compliance History Report Prepared: May 22, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 22, 2010 to May 22, 2015

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

Name: Heather Brister **Phone:** (817) 588-5825

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 EARTH HAULERS, INC. RN105327977	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2015-0583-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 Earth Haulers, Inc. ("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), because it is the owner and operator as defined in TEX. WATER CODE § 28A.001(4) and (5), of an aggregate production operation ("APO") located at 1500 West Timberlake Street in Azle, Parker 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 ch. § 26.001(5).

2. 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.

3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 8, 2015.

4. 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.

5. An administrative penalty in the amount of Eight Thousand Seven Hundred Fifty Dollars ($8,750) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Three Hundred Seven Dollars ($307) of the administrative penalty and One Thousand Seven Hundred Fifty Dollars ($1,750) 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.

The remaining amount of Six Thousand Six Hundred Ninety-Three Dollars ($6,693) of the administrative penalty shall be payable in 23 monthly payments of Two Hundred Ninety-One Dollars ($291) 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.

6. 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.

7. 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).

8. The Executive Director recognizes that on January 26, 2015, the Respondent registered the Site under APO Registration No. AP0001143.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

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

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d), as documented during an investigation conducted on January 26, 2015. Specifically, APO Registration No. AP0000645 expired on September 25, 2014.

2. Failed to obtain authorization to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") 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 January 26, 2015.

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 5 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: Earth Haulers, Inc., Docket No. 2015-0583-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. It is further ordered that the Respondent shall undertake the following technical requirements:

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

      i. Develop and begin implementing a Stormwater Pollution Prevention Plan ("SWP3") to comply with the requirements of TPDES General Permit No. TXR050000; and

      ii. Submit a Notice of Intent ("NOI") and associated fees to:

      Stormwater Processing Center
      Water Quality Division, MC 228
      Texas Commission on Environmental Quality
      P.O. Box 13087

Austin, Texas 78711-3087

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application, SWP3, or NOI within 30 days after the date of such requests, or by any other deadline specified in writing.

c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to discharge stormwater associated with industrial activities has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. 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 — 3/25/16 — 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 — 07 Oct 15 — Date

Allen Tucker — President

Name (Printed or typed)
Authorized Representative of
Earth Haulers, Inc.

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.