

Executive Summary – Enforcement Matter – Case No. 51057

D.R. Horton - Texas, Ltd.

RN106946031

Docket No. 2015-1180-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Tamarron Subdivision, located west of the intersection of Farm-to-Market Road 1463 and Fulshear Katy Road, Katy, Fort Bend County

Type of Operation:

Subdivision construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 8, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,000

Amount Deferred for Expedited Settlement: \$1,800

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$3,600

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$3,600

Name of SEP: Bayou Land Conservancy (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 9, 2014 to January 1, 2015

Date(s) of NOE(s): February 17, 2015

**Executive Summary – Enforcement Matter – Case No. 51057
D.R. Horton - Texas, Ltd.
RN106946031
Docket No. 2015-1180-WQ-E**

Violation Information

Failed to design, install, and maintain effective erosion and sediment controls to minimize the discharge of pollutants. Specifically, discharges of sediment-laden stormwater were documented on October 9, 2014; December 19, 2014; and January 7, 2015, as a result of inadequate sediment controls that were not installed on side slope boundaries; velocity dissipation devices that were not installed at discharge locations and along the length of outfall channels; sediment and erosion controls that were not installed and/or maintained along the perimeter of the property; and sediment controls that were not installed at the stormwater inlet where standing water was being pumped from the Site into a storm drain [TEX. WATER CODE § 26.121 (a)(1) and Texas Pollutant Discharge Elimination System General Permit No. TXR15YL32, Part III, Section G.1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By January 8, 2015, purchased and installed gravel bags and a hay basket to minimize to the amount of sediment discharged into the stormwater inlet; and
- b. By January 28, 2015, added sediment controls to the side slope boundaries and the perimeter of the property and added velocity dissipation devices to the channels and discharge locations.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment 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

Executive Summary – Enforcement Matter – Case No. 51057
D.R. Horton - Texas, Ltd.
RN106946031
Docket No. 2015-1180-WQ-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Christopher Bost, Enforcement Division,
Enforcement Team 1, MC R-15, (512) 239-4575; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Christopher Lindhorst, Division President, D.R. Horton - Texas, Ltd.,
14100 Southwest Freeway, Suite 500, Sugarland, Texas 77478

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-1180-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	D.R. Horton - Texas, Ltd.
Penalty Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
SEP Offset Amount:	Three Thousand Six Hundred Dollars (\$3,600)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Bayou Land Conservancy
Project Name:	<i>Lake Houston Watershed – Western Watershed Protection Project</i>
Location of SEP:	Harris and Montgomery Counties; San Jacinto River Basin; and Gulf Coast Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Bayou Land Conservancy** for the *Lake Houston Watershed – Western Watershed Protection Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”).

The Third-Party Administrator has identified approximately 600 acres along the West Fork of the San Jacinto River, Spring Creek, Cypress Creek, and Lake Creek for acquisition of perpetual conservation easements in accordance with Subchapter A, Chapter 183, Texas Natural Resources Code. The goal of this Project is to protect the floodplain within the western tributaries of the Lake Houston Watershed. Specifically, the SEP Offset Amount will be used to conduct certain due diligence activities and to purchase conservation easements from private and public landowners. The Third-Party Administrator shall also conduct restoration work as necessary on properties that were previously degraded before being placed under a conservation easement. Targeted properties are owned by Harris County, Montgomery County, and private landowners. After a property has been identified for conservation easement acquisition, the Third-Party Administrator shall submit a proposal to TCEQ that includes property owner

information, approximate boundaries and aerial maps, preliminary flora/fauna lists and environmental details of stream frontage, wetland acreage, habitat type, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for approved due diligence activities and purchase of the conservation easement.

After TCEQ approval, the Third-Party Administrator shall prepare a baseline inventory and mapping of the property. The baseline inventory will assess the ecological health of the tract, including onsite biological inventories of all flora and fauna species. Mapping will be completed by collecting data to prepare flood, topographic, wetland, soil, and aerial field maps. This information will determine whether restoration activities will be necessary and will also ensure that the Third-Party Administrator can preserve the ecological health of the property in the future.

The Third-Party Administrator shall address and remedy all encumbrances to the property title, including mortgages and other liens, prior to closing on the conservation easement purchase. The Third-Party Administrator shall not sell conservation easements or any other land interests acquired with the SEP Offset Amount. The Third-Party Administrator shall record a copy of each conservation easement in the county deed records within 15 days of closing. The Third-Party Administrator certifies that the conservation easements purchased for this Project will not be used as any additional or future mitigation project. The Third-Party Administrator shall also use the SEP Offset Amount for habitat restoration and enhancement, including planting native trees. Restoration activities will be conducted by a contractor and will take place on property protected by a conservation easement. Prior to commencing restoration activities, the Third-Party Administrator shall submit a proposal to TCEQ that includes the exact property location and description, property owner information, specific restoration activities to be conducted, amount of the SEP Offset Amount to be used for restoration activities, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for the approved restoration activities. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Rapid development in the Lake Houston Watershed has led to removal of the natural riparian buffers along the waterways, which jeopardizes the air and water quality. Spring Creek, Cypress Creek, Lake Creek, and the West Fork of the San Jacinto River are major water sources for Lake Houston, which is Houston's primary source of drinking water. When land is cleared and developed within these floodplains, the water becomes more turbid and often has increased *Escherichia coli* bacteria and other negative water quality contaminants.

Lands permanently preserved with conservation easements maintain vegetated banks and wooded floodplains to allow river overflow. When floodwater passes through the floodplain, the vegetated substrates are not eroded away, and the banks are maintained. Preserving the natural vegetated banks will help maintain water quality in this area. Additionally, many of the properties Third-Party Administrator will secure with conservation easements will be open to the public for low-impact recreational uses, and wildlife will benefit from connected habitat and undisturbed access to water sources.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Bayou Land Conservancy SEP** and shall mail the contribution with a copy of the Agreed Order to the following address.

Bayou Land Conservancy
Attention: Stephanie Prosser, Senior Conservation Lands Biologist
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to the following address.

D.R. Horton - Texas, Ltd.
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to the following address.

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and/or press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

D.R. Horton - Texas, Ltd.
Agreed Order - Attachment A

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	20-Jul-2015	Screening	3-Aug-2015	EPA Due	
	PCW	17-Sep-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	D.R. Horton - Texas, Ltd.		
Reg. Ent. Ref. No.	RN106946031		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51057	No. of Violations	1
Docket No.	2015-1180-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jennifer Graves
		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** **\$11,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$562**

Notes: Enhancement for one NOV with same/similar violations.

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** **-\$2,812**

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

Total EB Amounts: \$456
 Estimated Cost of Compliance: \$30,200
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$9,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$9,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$9,000**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,800**

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 **\$7,200**

Screening Date 3-Aug-2015

Docket No. 2015-1180-WQ-E

PCW

Respondent D.R. Horton - Texas, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51057

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106946031

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	1	5%
	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) 5%

>> 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

Enhancement for one NOV with same/similar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 3-Aug-2015

Docket No. 2015-1180-WQ-E

PCW

Respondent D.R. Horton - Texas, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51057

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106946031

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121 (a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15YL32, Part III, Section G.1

Violation Description Failed to design, install, and maintain effective erosion and sediment controls to minimize the discharge of pollutants, as documented during an investigation conducted from October 9, 2014 to January 8, 2015. Specifically, discharges of sediment-laden stormwater were documented on October 9, 2014; December 19, 2014; and January 7, 2015, as a result of inadequate sediment controls that were not installed on side slope boundaries; velocity dissipation devices that were not installed at discharge locations and along the length of outfall channels; sediment and erosion controls that were not installed and/or maintained along the perimeter of the property; and sediment controls that were not installed at the stormwater inlet where standing water was being pumped from the Site into a storm drain.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 Number of violation days 111

Table with frequency options: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$11,250

Three quarterly events are recommended, one for each location where a discharge occurred.

Good Faith Efforts to Comply

25.0%

Reduction \$2,812

Table with columns: Before NOE/NOV, NOE/NOV to EDRP/Settlement Offer, and rows: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes The Respondent achieved compliance by January 28, 2015.

Violation Subtotal \$8,438

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$456

Violation Final Penalty Total \$9,001

This violation Final Assessed Penalty (adjusted for limits) \$9,001

Economic Benefit Worksheet

Respondent D.R. Horton - Texas, Ltd.
Case ID No. 51057
Reg. Ent. Reference No. RN106946031
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	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	7-Jan-2015	8-Jan-2015	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)	\$30,000	9-Oct-2014	28-Jan-2015	0.30	\$456	n/a	\$456

Notes for DELAYED costs

The first delayed cost is the estimated amount to purchase and install gravel bags and a hay basket to minimize to the amount of sediment discharged into the stormwater inlet. Date required is the date the violation was documented. Final date is the date of compliance. The second delayed cost is the estimated amount to add sediment controls to the side slope boundaries and the perimeter of the property and to add velocity dissipation devices to the channels and discharge locations. Date required is the date the violation was initially documented. 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

\$30,200

TOTAL

\$456



Compliance History Report

PUBLISHED Compliance History Report for CN602544603, RN106946031, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN602544603, D.R. Horton - Texas, Ltd.	Classification:	SATISFACTORY	Rating:	3.60
Regulated Entity:	RN106946031, TAMARRON SUBDIVISION	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	6	Repeat Violator:	NO		
CH Group:	09 - Construction				
Location:	WEST OF THE INTERSECTION OF FM 1463 AND FULSHEAR KATY RD, KATY, FORT BEND COUNTY				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):					
STORMWATER PERMIT TXR15YL32		STORMWATER PERMIT TXR150010022			
Compliance History Period:	September 01, 2009 to August 31, 2014	Rating Year:	2014	Rating Date:	09/01/2014
Date Compliance History Report Prepared:	August 26, 2015				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	August 26, 2010 to August 26, 2015				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Jennifer Graves			Phone:	(956) 430-6023

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.

1	Date:	05/06/2015 (1241991)	CN602544603
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)	
	Description:	Failed to maintain sediment and erosion controls.	

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
D.R. HORTON - TEXAS, LTD.
RN106946031**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-1180-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 D.R. Horton - Texas, Ltd. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates a subdivision construction site located west of the intersection of Farm-to-Market Road 1463 and Fulshear Katy Road, in Katy, Fort Bend County, Texas (the "Site").
2. The Respondent has discharged other waste into or adjacent to any water in the state 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 February 22, 2015.
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 Nine Thousand Dollars (\$9,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Three Thousand Six Hundred Dollars (\$3,600) of the administrative penalty and One Thousand Eight Hundred Dollars (\$1,800) 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. Three Thousand Six Hundred Dollars (\$3,600) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. By January 8, 2015, purchased and installed gravel bags and a hay basket to minimize to the amount of sediment discharged into the stormwater inlet.
 - b. By January 28, 2015, added sediment controls to the side slope boundaries and the perimeter of the property and added velocity dissipation devices to the channels and discharge locations.
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 failed to design, install, and maintain effective erosion and sediment controls to minimize the discharge of pollutants, in violation of TEX. WATER CODE § 26.121 (a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15YL32, Part III, Section G.1, as documented during a record review conducted from October 9, 2014 to January 8, 2015. Specifically, discharges of sediment-laden stormwater were documented on October 9, 2014; December 19, 2014; and January 7, 2015, as a result of inadequate sediment controls that were not installed

on side slope boundaries; velocity dissipation devices that were not installed at discharge locations and along the length of outfall channels; sediment and erosion controls that were not installed and/or maintained along the perimeter of the property; and sediment controls that were not installed at the stormwater inlet where standing water was being pumped from the Site into a storm drain.

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: D.R. Horton - Texas, Ltd., Docket No. 2015-1180-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Six Hundred Dollars (\$3,600) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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

11/25/15
Date

CHRISTOPHER LINDHORST
Name (Printed or typed)
Authorized Representative of
D.R. Horton - Texas, Ltd.

DIVISION 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.

Attachment A
Docket Number: 2015-1180-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	D.R. Horton - Texas, Ltd.
Penalty Amount:	Seven Thousand Two Hundred Dollars (\$7,200)
SEP Offset Amount:	Three Thousand Six Hundred Dollars (\$3,600)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Bayou Land Conservancy
Project Name:	<i>Lake Houston Watershed – Western Watershed Protection Project</i>
Location of SEP:	Harris and Montgomery Counties; San Jacinto River Basin; and Gulf Coast Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Bayou Land Conservancy** for the *Lake Houston Watershed – Western Watershed Protection Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”).

The Third-Party Administrator has identified approximately 600 acres along the West Fork of the San Jacinto River, Spring Creek, Cypress Creek, and Lake Creek for acquisition of perpetual conservation easements in accordance with Subchapter A, Chapter 183, Texas Natural Resources Code. The goal of this Project is to protect the floodplain within the western tributaries of the Lake Houston Watershed. Specifically, the SEP Offset Amount will be used to conduct certain due diligence activities and to purchase conservation easements from private and public landowners. The Third-Party Administrator shall also conduct restoration work as necessary on properties that were previously degraded before being placed under a conservation easement. Targeted properties are owned by Harris County, Montgomery County, and private landowners. After a property has been identified for conservation easement acquisition, the Third-Party Administrator shall submit a proposal to TCEQ that includes property owner

D.R. Horton - Texas, Ltd.
Agreed Order - Attachment A

information, approximate boundaries and aerial maps, preliminary flora/fauna lists and environmental details of stream frontage, wetland acreage, habitat type, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for approved due diligence activities and purchase of the conservation easement.

After TCEQ approval, the Third-Party Administrator shall prepare a baseline inventory and mapping of the property. The baseline inventory will assess the ecological health of the tract, including onsite biological inventories of all flora and fauna species. Mapping will be completed by collecting data to prepare flood, topographic, wetland, soil, and aerial field maps. This information will determine whether restoration activities will be necessary and will also ensure that the Third-Party Administrator can preserve the ecological health of the property in the future.

The Third-Party Administrator shall address and remedy all encumbrances to the property title, including mortgages and other liens, prior to closing on the conservation easement purchase. The Third-Party Administrator shall not sell conservation easements or any other land interests acquired with the SEP Offset Amount. The Third-Party Administrator shall record a copy of each conservation easement in the county deed records within 15 days of closing. The Third-Party Administrator certifies that the conservation easements purchased for this Project will not be used as any additional or future mitigation project. The Third-Party Administrator shall also use the SEP Offset Amount for habitat restoration and enhancement, including planting native trees. Restoration activities will be conducted by a contractor and will take place on property protected by a conservation easement. Prior to commencing restoration activities, the Third-Party Administrator shall submit a proposal to TCEQ that includes the exact property location and description, property owner information, specific restoration activities to be conducted, amount of the SEP Offset Amount to be used for restoration activities, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for the approved restoration activities. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

D.R. Horton - Texas, Ltd.
Agreed Order - Attachment A

b. Environmental Benefit

Rapid development in the Lake Houston Watershed has led to removal of the natural riparian buffers along the waterways, which jeopardizes the air and water quality. Spring Creek, Cypress Creek, Lake Creek, and the West Fork of the San Jacinto River are major water sources for Lake Houston, which is Houston's primary source of drinking water. When land is cleared and developed within these floodplains, the water becomes more turbid and often has increased *Escherichia coli* bacteria and other negative water quality contaminants.

Lands permanently preserved with conservation easements maintain vegetated banks and wooded floodplains to allow river overflow. When floodwater passes through the floodplain, the vegetated substrates are not eroded away, and the banks are maintained. Preserving the natural vegetated banks will help maintain water quality in this area. Additionally, many of the properties Third-Party Administrator will secure with conservation easements will be open to the public for low-impact recreational uses, and wildlife will benefit from connected habitat and undisturbed access to water sources.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Bayou Land Conservancy SEP** and shall mail the contribution with a copy of the Agreed Order to the following address.

Bayou Land Conservancy
Attention: Stephanie Prosser, Senior Conservation Lands Biologist
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to the following address.

D.R. Horton - Texas, Ltd.
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to the following address.

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and/or press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

D.R. Horton - Texas, Ltd.
Agreed Order - Attachment A

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.