

Ted Gillis
RN105936660
Docket No. 2018-0401-AIR-E

Order Type:
 Default Order

Media:
 AIR

Small Business:
 No

Location(s) Where Violation(s) Occurred:
 1705 Cottonwood School, Rosenberg, Fort Bend County (the “Plant”)

Type of Operation:
 concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions:	Yes, Docket No. 2018-0387-AIR-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: August 5, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$55,559

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$55,559

Compliance History Classifications:

Person/CN - Unclassified
 Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: \$42,831.00 (PCW2); enhancement

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): July 28, 2015

Complaint Information: Complainant alleges dust nuisance when cement is loaded into the silo and from cement dust and sand blowing through and leaving the property. Complainant also alleges the dust covers their property, equipment, and cars.

Date(s) of Investigation: August 6, 2015; August 13, 2015; March 1, 2016

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

Date(s) of NOE(s): June 23, 2017

Ted Gillis
RN105936660
Docket No. 2018-0401-AIR-E

Violation Information

1. Caused, suffered, allowed, or permitted nuisance dust conditions [TEX. HEALTH & SAFETY CODE § 382.085(a) and (b) and 30 TEX. ADMIN. CODE § 101.4].
2. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
3. Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

No longer owns or operates the Plant as of September 28, 2020

Litigation Information

Date Petition(s) Filed: June 19, 2019; February 16, 2022

Date Green Card(s) Signed: June 21, 2019; February 18, 2022

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Benjamin Warms, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Johnnie Wu, Enforcement Division, (512) 239-2524

TCEQ Regional Contact: Joe Doby, Houston Regional Office, (713) 767-3500

Respondent Contact: Ted Gillis, 1705 Cottonwood School Road, Rosenberg, Texas 77471

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	26-Jun-2017	Screening	23-Mar-2018	EPA Due	
	PCW	17-Aug-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Ted Gillis				
Reg. Ent. Ref. No.	RN105936660				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	55881	No. of Violations	2
Docket No.	2018-0401-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Johnnie Wu
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

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%** Adjustment **Subtotals 2, 3, & 7** **\$0**

Notes	No adjustment due to Compliance History.
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Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts	\$3,059	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,000	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **122.4%** Adjustment **\$3,059**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided costs of compliance associated with Violation Nos. 1 and 2.
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Final Penalty Amount **\$5,559**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,559**

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

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY **\$5,559**

Screening Date	23-Mar-2018	Docket No.	2018-0401-AIR-E	PCW
Respondent	Ted Gillis			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55881			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN105936660			
Media	Air			
Enf. Coordinator	Johnnie Wu			

Compliance History Worksheet

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

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

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes No adjustment due to 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	23-Mar-2018	Docket No.	2018-0401-AIR-E	PCW
Respondent	Ted Gillis			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55881			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN105936660			
Media	Air			
Enf. Coordinator	Johnnie Wu			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)			
Violation Description	Caused, suffered, allowed, or permitted nuisance dust conditions. Specifically, dust emissions from the roads and stockpiles at the Site resulted in nuisance dust conditions at an off-site property.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential	Percent	5.0%
	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.				

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1,532 Violation Final Penalty Total \$2,780

This violation Final Assessed Penalty (adjusted for limits) \$2,780

Economic Benefit Worksheet

Respondent Ted Gillis
Case ID No. 55881
Reg. Ent. Reference No. RN105936660
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$1,500	6-Aug-2015	13-Jan-2016	0.44	\$32	\$1,500	\$1,532
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to implement measures and procedures to minimize dust emissions from the roads and stockpiles from causing nuisance dust conditions. The Date Required is the date nuisance dust conditions were documented and the Final Date is the date of the transfer of ownership.

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,532

Screening Date	23-Mar-2018	Docket No.	2018-0401-AIR-E	PCW
Respondent	Ted Gillis			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55881			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN105936660			
Media	Air			
Enf. Coordinator	Johnnie Wu			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	Percent <input type="text" value="5.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Matrix Notes	<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Ted Gillis
Case ID No. 55881
Reg. Ent. Reference No. RN105936660
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$1,500	3-Sep-2015	13-Jan-2016	0.36	\$27	\$1,500	\$1,527
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to implement measures and procedures to prevent the unauthorized outdoor burning of waste at the Site. The Date Required is the date unauthorized outdoor burning was documented and the Final Date is the date of the transfer of ownership.

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,527



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	26-Jun-2017	Screening	23-Mar-2018	EPA Due	
	PCW	17-Aug-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ted Gillis
Reg. Ent. Ref. No.	RN105936660
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	55881	No. of Violations	1
Docket No.	2018-0401-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Johnnie Wu
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment due to Compliance History.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$919
 Estimated Cost of Compliance: \$900
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	14.7% Adjustment	\$919
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs of compliance associated with Violation No. 1.

Final Penalty Amount	\$7,169
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$50,000
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Notes: The final assessed penalty has been adjusted to \$50,000 to meet the statutory requirements of Tex. Water Code § 7.052(b).

DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: A deferral is not recommended because a mandatory statutory penalty amount is being assessed.

PAYABLE PENALTY	\$50,000
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Screening Date	23-Mar-2018	Docket No.	2018-0401-AIR-E	PCW
Respondent	Ted Gillis			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55881			<i>PCW Revision September 1, 2019</i>
Reg. Ent. Reference No.	RN105936660			
Media	Air			
Enf. Coordinator	Johnnie Wu			

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

No adjustment due to Compliance History.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	23-Mar-2018	Docket No.	2018-0401-AIR-E	PCW
Respondent	Ted Gillis			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	55881			<i>PCW Revision September 1, 2019</i>
Reg. Ent. Reference No.	RN105936660			
Media	Air			
Enf. Coordinator	Johnnie Wu			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)			
Violation Description	Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a specialty concrete batch plant prior to obtaining the proper authorization.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> 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: 5 5 Number of violation days

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$6,250

Five daily events are recommended based on the documentation that the concrete batch plant operated for five days.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$6,250

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$919 Violation Final Penalty Total \$7,169

This violation Final Assessed Penalty (adjusted for limits) \$7,169

Economic Benefit Worksheet

Respondent Ted Gillis
Case ID No. 55881
Reg. Ent. Reference No. RN105936660
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$900	6-Aug-2015	13-Jan-2016	0.44	\$19	\$900	\$919
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain authorization for the specialty concrete batch plant at the Site. The Date Required is the date of the initial investigation and the Final Date is the date of the transfer of ownership.

Approx. Cost of Compliance

\$900

TOTAL

\$919



Compliance History Report

Compliance History Report for CN605332949, RN105936660, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN605332949, Gillis, Ted **Classification:** UNCLASSIFIED **Rating:** -----
Regulated Entity: RN105936660, PORTABLE SPECIALTY CONCRETE BATCH PLANT NO 1 **Classification:** UNCLASSIFIED **Rating:** -----
Complexity Points: 2 **Repeat Violator:** NO
CH Group: 10 - Cement and Concrete Product Manufacturing
Location: 1705 COTTONWOOD SCHOOL RD ROSENBERG, TX 77471-7125, FORT BEND COUNTY
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
AIR NEW SOURCE PERMITS REGISTRATION 92695 **AIR QUALITY NON PERMITTED** ID NUMBER R12105936660

Compliance History Period: September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

Date Compliance History Report Prepared: December 06, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 06, 2013 to December 06, 2018

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Johnnie Wu **Phone:** (512) 239-2524

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

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TED GILLIS;
RN105936660**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2018-0401-AIR-E

On _____, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s First Amended Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Ted Gillis (“Respondent”).

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owned and operated a concrete batch plant located at 1705 Cottonwood School Road in Rosenberg, Fort Bend County, Texas (the “Plant”). The Plant consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During investigations conducted on August 6, 2015, August 13, 2015, and March 1, 2016, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted nuisance dust conditions. Specifically, dust emissions from the roads and stockpiles at the Plant resulted in nuisance dust conditions at an off-site property;
 - b. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, unauthorized outdoor burning of material occurred at the Plant; and
 - c. Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, Respondent operated a specialty concrete batch plant prior to obtaining the proper authorization.
3. The Executive Director recognizes that the Plant was authorized under a standard permit on September 28, 2020, to PAVE/LOCK/PLUS II, LLC.
4. The Executive Director filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Ted Gillis” (the “EDFARP”) in the TCEQ Chief Clerk’s office on February 16, 2022.
5. By letter dated February 16, 2022, sent to Respondent’s last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to USPS.com “Track & Confirm” delivery confirmation records, Respondent received notice of the EDFARP on February 18, 2022.
6. More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent caused, suffered, allowed, or permitted nuisance dust conditions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b) and 30 TEX. ADMIN. CODE § 101.4.
3. As evidenced by Finding of Fact No. 2.b., Respondent caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of fifty-five thousand five hundred fifty-nine dollars (\$55,559.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of fifty-five thousand five hundred fifty-nine dollars (\$55,559.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Ted Gillis; Docket No. 2018-0401-AIR-E" to:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. If Respondent fails 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF BENJAMIN WARMS

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Ted Gillis' (the "EDFARP") was filed in the TCEQ Chief Clerk's office on February 16, 2022.

The EDFARP was mailed to Respondent's last known address on February 16, 2022, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDFARP on February 18, 2022.

More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing."

"My name is Benjamin N. Warms,
and I am an employee of the following governmental agency: Texas
Commission on Environmental Quality. I am executing this
declaration as part of my assigned duties and responsibilities. I
declare under penalty of perjury that the foregoing is true and
correct."

Executed in Travis County,
State of Texas,
on the 4th day of May, 2022

A handwritten signature in blue ink, appearing to read "Benjamin N. Warms", written over a horizontal line.

Declarant