

Executive Summary – Enforcement Matter – Case No. 57254
Texas Concrete Sand and Gravel, Inc.
RN106352065
Docket No. 2019-0211-WQ-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Plum Grove Plant, 7530 Farm-to-Market Road 1010, Cleveland, Liberty County

Type of Operation:

Aggregate production operation ("APO")

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 19, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$19,063

Total Paid to General Revenue: \$1,595

Total Due to General Revenue: \$17,468

Payment Plan: 11 payments of \$1,588 each

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): September 20, 2019 and October 6, 2019

Complaint Information: Alleged there were unauthorized discharges from the facility.

Date(s) of Investigation: January 9, 2019, May 15, 2019 through May 23, 2019, and September 24, 2019

Date(s) of NOE(s): January 16, 2019, June 10, 2019, and October 7, 2019

Executive Summary – Enforcement Matter – Case No. 57254
Texas Concrete Sand and Gravel, Inc.
RN106352065
Docket No. 2019-0211-WQ-E

Violation Information

1. Failed to investigate the cause for each benchmark value exceedance within 90 days following the sampling event [30 TEX. ADMIN. CODE § 305.125(1) and expired Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05AX64, Part IV, Section A, Item 3].
2. Failed to maintain complete and accurate records [30 TEX. ADMIN. CODE § 305.125(1) and (11)(C) and terminated TPDES MSGP No. TXR05DH81, Part III, Section E, Item 5].
3. Failed to comply with permitted numeric effluent [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, Item 6(a)(1)].
4. Failed to collect representative samples from the designated outfalls [30 TEX. ADMIN. CODE § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part III, Section D, Item 2(b)(1)].
5. Failed to prevent the discharge of process wastewater into or adjacent to any water in the state [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 5(b)].
6. Failed to prevent the discharge of process wastewater into or adjacent to any water in the state [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 5(b)].
7. Failed to meet the final stabilization requirements before terminating coverage under TPDES MSGP No. TXR050000 [30 TEX. ADMIN. CODE § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 11(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By May 28, 2019, ceased discharging process wastewater and repaired the berm surrounding Pond 2.
- b. By September 26, 2019, ceased discharging process wastewater and repaired the berm surrounding Pond 1.
- c. By January 13, 2020:

Executive Summary – Enforcement Matter – Case No. 57254
Texas Concrete Sand and Gravel, Inc.
RN106352065
Docket No. 2019-0211-WQ-E

i. Updated the Facility's operational guidance and conducted employee training to ensure that:

(1) Sampling records are properly recorded including the records of monitoring such as the date, time, and location of sample measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records.

(2) Investigations are properly conducted and recorded in the stormwater pollution prevent plan within 90 days of a benchmark value exceedance occurring.

ii. Returned to compliance with the permitted numeric effluent limitations.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days, achieve final stabilization at the Facility or return the area to an alternative post-mining use; and

b. Within 45 days, submit a written certification of compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Caleb Olson, Enforcement Division, Enforcement Team 1, MC R-04, (817) 588-5856; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Somaiah Kurre, President, Texas Concrete Sand and Gravel, Inc., 1017 Wakefield Drive, Houston, Texas 77018

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	22-Jan-2019	Screening	4-Feb-2019	EPA Due	
	PCW	6-Mar-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Reg. Ent. Ref. No.	RN106352065
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	4
Enf./Case ID No.	57254	Order Type	Findings
Docket No.	2019-0211-WQ-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Caleb Olson
Multi-Media		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	\$4,125
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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	25.0% Adjustment	Subtotals 2, 3, & 7

Notes: Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

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	-\$337
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$968	*Capped at the Total EB \$ Amount	
Estimated Cost of Compliance	\$2,257		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,819
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OTHER FACTORS AS JUSTICE MAY REQUIRE	16.7%	Adjustment	\$806
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Notes: Enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 4.

Final Penalty Amount	\$5,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,625
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,625
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Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

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>)	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>)	1	20%
	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) 25%

>> 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 and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date	4-Feb-2019	Docket No.	2019-0211-WQ-E	PCW
Respondent	Texas Concrete Sand and Gravel, Inc. (PCW No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57254			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106352065			
Media	Water Quality			
Enf. Coordinator	Caleb Olson			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and expired Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05AX64, Part IV, Section A, Item 3			
Violation Description	Failed to investigate the cause for each benchmark value exceedance within 90 days following the sampling event. Specifically, the benchmark value of 50 milligrams per liter ("mg/L") for Total Suspended Solids was exceeded on February 22, 2016 with a value of 375 mg/L and on August 29, 2016 with a value of 179 mg/L and no investigations were documented.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
	Potential			X	Percent 3.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
					Adjustment \$24,250

\$750

Violation Events

Number of Violation Events	2	740	Number of violation days	
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	X		Violation Base Penalty \$1,500
Two single events are recommended, one for each exceedance.				

Good Faith Efforts to Comply **10.0%** Reduction \$150

	Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer		
Extraordinary			
Ordinary		X	
N/A			
Notes	The Respondent achieved compliance by January 13, 2020.		
			Violation Subtotal \$1,350

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$271	Violation Final Penalty Total \$2,014
This violation Final Assessed Penalty (adjusted for limits) \$2,014	

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
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	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	\$250	22-May-2016	13-Jan-2020	3.65	\$46	n/a	\$46
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

Training/Sampling cost is the estimated cost to update the Facility's operational guidance and conduct employee training to ensure that investigations are properly conducted and recorded in the stormwater pollution prevention plan ("SWP3") within 90 days of a benchmark value exceedance occurring. Date required is the last date an investigation could have been conducted and recorded for the exceedance that occurred on February 22, 2016. Final date is the date of compliance.

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	\$100	22-May-2016	4-Feb-2019	2.71	\$14	\$100	\$114
Other (as needed)	\$100	27-Nov-2016	4-Feb-2019	2.19	\$11	\$100	\$111

Notes for AVOIDED costs

One-Time avoided cost is the estimated cost to investigate the cause of a benchmark value exceedance and record the results of the investigation in the SWP3. Date required is the last date an investigation could have been conducted and recorded for the exceedance that occurred on February 22, 2016. Final date is the screening date.

Other avoided cost is the estimated cost to investigate the cause of a benchmark value exceedance and record the results of the investigation in the SWP3. Date required is the last date an investigation could have been conducted and recorded for the exceedance that occurred on August 29, 2016. Final date is the screening date.

Approx. Cost of Compliance \$450

TOTAL \$271

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (11)(C) and terminated TPDES MSGP No. TXR05DH81, Part III, Section E, Item 5

Violation Description

Failed to maintain complete and accurate records. Specifically, the Respondent was not properly recording sampling records, including the records of monitoring such as the date, time, and location of sample or measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
			X		2.5%

Matrix Notes

Between 30% and 70% of the rule requirements were not met.

Adjustment \$24,375

\$625

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$625

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$62

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		

Notes

The Respondent achieved compliance by January 13, 2020.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$840

This violation Final Assessed Penalty (adjusted for limits) \$840

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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	\$250	8-Feb-2018	13-Jan-2020	1.93	\$24	n/a	\$24
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

Training/Sampling cost is the estimated cost to update the Facility's operational guidance and conduct employee training to ensure that sampling records are properly recorded including the records of monitoring such as the date, time, and location of sample or measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records. Date required is the date the violation was initially documented. Final date is the date of compliance.

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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$24

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, Item 6(a)(1)

Violation Description

Failed to comply with permitted numeric effluent limitations. Specifically, on March 16, 2018, the pH at Outfall No. 1 was 5.75 standard units ("s.u."), failing to meet the minimum permitted numeric effluent limitation for pH of 6.0 s.u.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors 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	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the sample collected on March 16, 2018.

Good Faith Efforts to Comply

10.0%

Reduction \$125

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

Notes

The Respondent achieved compliance by January 13, 2020.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$92

Violation Final Penalty Total \$1,678

This violation Final Assessed Penalty (adjusted for limits) \$1,678

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
Media Water Quality
Violation No. 3

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)	\$1,000	16-Mar-2018	13-Jan-2020	1.83	\$92	n/a	\$92

Notes for DELAYED costs Estimated cost to determine the cause of noncompliance at the Facility and make any necessary adjustments to return to compliance with the permitted numeric effluent limitations. Date required is the date the violation was initially documented. Final date is the date of compliance.

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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$92

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part III, Section D, Item 2(b)(1)

Violation Description

Failed to collect representative samples from the designated outfalls. Specifically, the Respondent was collecting effluent samples at the northern pit pump of the stormwater retention pond rather than at the designated Outfall Nos. 1 and 2.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

26 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$750

One quarterly event is recommended from the investigation date (January 9, 2019) to the screening date (February 4, 2019).

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$581

Violation Final Penalty Total \$1,094

This violation Final Assessed Penalty (adjusted for limits) \$1,094

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
Media Water Quality
Violation No. 4

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	\$307	30-Jun-2019	1-Oct-2019	0.25	\$4	\$307	\$311
Other (as needed)	\$250	16-Mar-2018	1-Oct-2019	1.55	\$20	\$250	\$270

Notes for AVOIDED costs

One-time avoided cost is the estimated avoided cost to collect and analyze effluent samples (\$100 per sample x three missed samples + \$7 accrued interest). Date required is the last date a sample could have been collected for the first bi-annual monitoring period of 2019. Final date is the date authorization under TPDES MSGP No. TXR05DH81 was terminated.

Other cost is the estimated avoided cost to update the Facility's operational guidance and conduct employee training to ensure that representative samples are collected from the designated Outfall Nos. 1 and 2. Date required is the date the violation was initially documented. Final date is the date authorization under TPDES MSGP No. TXR05DH81 was terminated.

Approx. Cost of Compliance \$557

TOTAL \$581



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	15-Jul-2019	Screening	24-Jul-2019	EPA Due	
	PCW	21-Jan-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Concrete Sand and Gravel, Inc. (PCW No. 2)
Reg. Ent. Ref. No.	RN106352065
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	57254	Order Type	Findings
Docket No.	2019-0211-WQ-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Caleb Olson
Multi-Media		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	\$7,500
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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	25.0% Adjustment	Subtotals 2, 3, & 7

Notes: Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

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	-\$1,875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$23	*Capped at the Total EB \$ Amount	
Estimated Cost of Compliance	\$11,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes

Final Penalty Amount	\$7,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,500
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage.				

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$7,500
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Screening Date 24-Jul-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 2)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

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>)	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>)	1	20%
	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) 25%

>> 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 and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 24-Jul-2019 **Docket No.** 2019-0211-WQ-E **PCW**
Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 2) *Policy Revision 4 (April 2014)*
Case ID No. 57254 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN106352065
Media Water Quality
Enf. Coordinator Caleb Olson

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and terminated Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR05DH81, Part V, Section J, No. 5(b)
Violation Description Failed to prevent the discharge of process wastewater into or adjacent to any water in the state. Specifically, during a rainfall event, water from the East Fork of the San Jacinto River entered the Facility's secondary process pond ("Pond 2") through an approximate 20-foot berm breach, resulting in the discharge of approximately 40 million gallons of process wastewater into the East Fork of the San Jacinto River.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	X			30.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 15 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended from the initial date the unauthorized discharge occurred (May 13, 2019) to the date of compliance (May 28, 2019).

Good Faith Efforts to Comply 25.0% Reduction \$1,875

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

Notes The Respondent achieved compliance by May 28, 2019.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$23 **Violation Final Penalty Total** \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 2)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
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	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)	\$11,000	13-May-2019	28-May-2019	0.04	\$23	n/a	\$23

Notes for DELAYED costs Estimated cost to cease discharging process wastewater and to repair the berm surrounding Pond 2. Date required is the date the unauthorized discharge occurred. Final date is the date of compliance.

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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$11,000	TOTAL	\$23
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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	21-Oct-2019	Screening	31-Oct-2019	EPA Due	
	PCW	15-Jan-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Concrete Sand and Gravel, Inc. (PCW No. 3)
Reg. Ent. Ref. No.	RN106352065
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	57254	Order Type	Findings
Docket No.	2019-0211-WQ-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Caleb Olson
Multi-Media		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	\$5,000
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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	25.0% Adjustment	Subtotals 2, 3, & 7
		\$1,250

Notes: Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

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	-\$312
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,250
 Estimated Cost of Compliance: \$25,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,938
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,938
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,938
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,938
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Screening Date 31-Oct-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

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>)	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>)	1	20%
	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) 25%

>> 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 and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 31-Oct-2019 **Docket No.** 2019-0211-WQ-E **PCW**
Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3) *Policy Revision 4 (April 2014)*
Case ID No. 57254 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN106352065
Media Water Quality
Enf. Coordinator Caleb Olson

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and terminated Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DH81, Part V, Section J, No. 5(b)
Violation Description Failed to prevent the discharge of process wastewater into or adjacent to any water in the state. Specifically, four berm breaches occurred at the Facility's primary process pond ("Pond 1"), resulting in the discharge of process wastewater into an existing drainage channel which led into the East Fork of the San Jacinto River.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 2 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (September 24, 2019) to the date of compliance (September 26, 2019).

Good Faith Efforts to Comply 25.0% Reduction \$312

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

Notes: The Respondent achieved compliance by September 26, 2019.

Violation Subtotal \$938

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$1,251

This violation Final Assessed Penalty (adjusted for limits) \$1,251

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
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	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)	\$250	24-Sep-2019	26-Sep-2019	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to cease discharging process wastewater and to repair the berm surrounding Pond 1. Date required is the date the unauthorized discharge occurred. Final date is the date of compliance.

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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$0

Screening Date 31-Oct-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 11(a)

Violation Description

Failed to meet the final stabilization requirements before terminating coverage under TPDES MSGP No. TXR050000. Specifically, the Respondent terminated coverage under TPDES MSGP No. TXR05DH81 on October 1, 2019, and, during a flyover of the Facility conducted on October 1, 2019, large bare areas of soil were observed where the dry mining pit was located and where the southern berm breaches of Pond 1 had been repaired.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants that would 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 1

30 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the date coverage under TPDES MSGP No. TXR05DH81 was terminated (October 1, 2019) to the screening date (October 31, 2019).

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,250

Violation Final Penalty Total \$4,688

This violation Final Assessed Penalty (adjusted for limits) \$4,688

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25,000	1-Oct-2019	30-Sep-2020	1.00	\$1,250	n/a	\$1,250

Notes for DELAYED costs

Estimated cost to achieve final stabilization at the Facility or return the area to an alternative post-mining use. Date required is the date coverage under TPDES MSGP No. TXR05DH81 was terminated. Final date is the anticipated date of compliance.

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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$25,000

TOTAL \$1,250

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN604045708, RN106352065, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN604045708, Texas Concrete Sand and Gravel, Inc. **Classification:** SATISFACTORY **Rating:** 53.90
Regulated Entity: RN106352065, Plum Grove Plant **Classification:** SATISFACTORY **Rating:** 22.14
Complexity Points: 6 **Repeat Violator:** NO
CH Group: 04 - Mining
Location: 7530 Farm-to-Market Road 1010 in Cleveland, Liberty County, Texas
TCEQ Region: REGION 12 - HOUSTON
ID Number(s):

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: March 06, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 06, 2015 to March 06, 2020

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

Name: Caleb Olson

Phone: (817) 588-5856

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:

- 1 Effective Date: 12/13/2016 ADMINORDER 2016-0143-WQ-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 342, SubChapter B 342.25(d)
Description: Failed to renew the Aggregate Production Operation (APO) registration annually.
Classification: Major
Citation: TWC Chapter 26 26.121(a)(2)
Description: Failed to prevent the unauthorized discharge of industrial waste

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Description: Failure by Texas Concrete Sand and Gravel to conduct sampling for Annual Hazardous Metals.

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: Part III, Section E(6)(c), Page 84 PERMIT

Description: Failure by Texas Concrete Sand and Gravel to sign and certify the Routine Facility Inspection (RFI) reports.

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: Part III, Section D(1)(c), Page 75 PERMIT

Description: Failure by Texas Concrete Sand and Gravel to maintain a rain gauge on-site.

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: Part IV, Section B(1)(a), Page 88 PERMIT

Description: Failure by Texas Concrete Sand and Gravel to conduct Benchmark sampling at the specified frequency of every six months (Semi-Annually).

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: Part III, Section A(5)(a)(3), Page 64 PERMIT

Description: Failure by Texas Concrete Sand and Gravel to sign and certify the Delegation of

Authority form.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2)

Description: Failure by Texas Concrete Sand and Gravel to prevent the discharge of waste into or adjacent to waters of the state.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: Part III, Section A(4)(c), Page 63 PERMIT

Description: Failure by Texas Concrete Sand and Gravel to implement erosion/sediment controls to address soil erosion.

6 Date: 05/11/2018 (1478289)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

30 TAC Chapter 305, SubChapter F 305.125(9)

Part III, Section E, Item 6(b) PERMIT

Description: Failed to submit a non-compliance notification for the unauthorized discharge of process water.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TXR05DH81, Part V Sector J.6(a)(1) PERMIT

Description: Failed to maintain compliance with permitted numeric effluent limitations.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TXR05DH81, Part III, Section D.2(b)(1) PERMIT

Description: Failed to sample at designated outfalls.

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)

Description: Failed to maintain compliance with sampling requirements.

7 Date: 05/14/2018 (1480077)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

MSGP TXR05DH81 Part III PERMIT

Description: The permittee failed to maintain Best Management Practices (BMPs).

8 Date: 08/31/2018 (1499244) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
MSGP TXR05DH81 Part III PERMIT
Description: The permittee failed to maintain Best Management Practices (BMPs).

9* Date: 11/14/2018 (1519173) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failed to comply with sampling requirements of the MSGP.

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
MSGP, Part IV, Section A, Item 3 PERMIT
Description: Failed to document steps taken to address benchmark exceedances.
Classification: Major

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TXR05DH81, Part V, Sector J.6 PERMIT
TXR05DH81, Part V, Sector J.7 PERMIT
Description: Failed to conduct sampling as required.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TXR05DH81, Part III.E.5. PERMIT
TXR05DH81, Part III.E.6. PERMIT
Description: Failed to comply with record keeping and reporting requirements.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TXR05DH81, Part V Sector J.6(a)(1) PERMIT
Description: Failed to maintain compliance with permitted numeric effluent limitations.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TXR05DH81, Part III, Section D.2(b)(1) PERMIT
Description: Failed to sample at designated outfalls.
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
Description: Failed to maintain compliance with sampling requirements.

10* Date: 03/08/2019 (1539125) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2)
Description: Failure to prevent the unauthorized discharge of industrial wastewater (process water) into or adjacent to any water in the state.

* NOVs applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period March 06, 2015 and March 06, 2020

Item 1 March 09, 2018** (1473846) For Informational Purposes Only

Item 2 April 17, 2018** (1480370) For Informational Purposes Only

Item 3	May 10, 2018**	(1480239) For Informational Purposes Only
Item 4	May 11, 2018**	(1480077) For Informational Purposes Only
Item 5	September 27, 2018**	(1518107) For Informational Purposes Only
Item 6	October 05, 2018**	(1518083) For Informational Purposes Only
Item 7	October 23, 2018**	(1523400) For Informational Purposes Only
Item 8	October 30, 2018**	(1524579) For Informational Purposes Only
Item 9	November 12, 2018**	(1519173) For Informational Purposes Only
Item 10	January 16, 2019**	(1537729) For Informational Purposes Only
Item 11	March 08, 2019**	(1539125) For Informational Purposes Only
Item 12	July 12, 2019**	(1569840) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS CONCRETE SAND AND
GRAVEL, INC.
RN106352065**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2019-0211-WQ-E**

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Concrete Sand and Gravel, Inc. (the "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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent operated an aggregate production operation located at 7530 Farm-to-Market Road 1010 in Cleveland, Liberty County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on January 9, 2019, an investigator documented that:
 - a. The benchmark value of 50 milligrams per liter ("mg/L") for Total Suspended Solids was exceeded on February 22, 2016 with a value of 375 mg/L and on August 29, 2016 with a value of 179 mg/L and no investigations were documented.
 - b. The Respondent was not properly recording sampling records, including the records of monitoring such as the date, time, and location of sample or measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and

place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records.

- c. On March 16, 2018, the pH at Outfall No. 1 was 5.75 standard units ("s.u."), failing to meet the minimum permitted numeric effluent limitation for pH of 6.0 s.u.
 - d. The Respondent was collecting effluent samples at the northern pit pump of the stormwater retention pond rather than at the designated Outfall Nos. 1 and 2.
3. During an investigation conducted from May 15, 2019 through May 23, 2019, an investigator documented that during a rainfall event, water from the East Fork of the San Jacinto River entered the Facility's secondary process pond ("Pond 2") through an approximate 20-foot berm breach, resulting in the discharge of approximately 40 million gallons of process wastewater into the East Fork of the San Jacinto River.
 4. During an investigation conducted on September 24, 2019, an investigator documented that:
 - a. Four berm breaches occurred at the Facility's primary process pond ("Pond 1"), resulting in the discharge of process wastewater into an existing drainage channel which led into the East Fork of the San Jacinto River.
 - b. The Respondent terminated coverage under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DH81 on October 1, 2019, and, during a flyover of the Facility conducted on October 1, 2019, large bare areas of soil were observed where the dry mining pit was located and where the southern berm breaches of Pond 1 had been repaired.
 4. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - d. By May 28, 2019, ceased discharging process wastewater and repaired the berm surrounding Pond 2.
 - e. By September 26, 2019, ceased discharging process wastewater and repaired the berm surrounding Pond 1.
 - c. By January 13, 2020:
 - i. Updated the Facility's operational guidance and conducted employee training to ensure that:

- (1) Sampling records are properly recorded including the records of monitoring such as the date, time, and location of sample measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records.
 - (2) Investigations are properly conducted and recorded in the stormwater pollution prevent plan within 90 days of a benchmark value exceedance occurring.
- ii. Returned to compliance with the permitted numeric effluent limitations.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to investigate the cause for each benchmark value exceedance within 90 days following the sampling event, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and expired TPDES MSGP No. TXR05AX64, Part IV, Section A, Item 3.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to maintain complete and accurate records, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (11)(C) and terminated TPDES MSGP No. TXR05DH81, Part III, Section E, Item 5.
4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to comply with permitted numeric effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, Item 6(a)(1).
5. As evidenced by Finding of Fact No. 2.d, the Respondent failed to collect representative samples from the designated outfalls, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part III, Section D, Item 2(b)(1).
6. As evidenced by Finding of Fact No. 3, the Respondent failed to prevent the discharge of process wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 5(b).
7. As evidenced by Finding of Fact No. 4.a, the Respondent failed to prevent the discharge of process wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 5(b).

8. As evidenced by Finding of Fact No. 4.b, the Respondent failed to meet the final stabilization requirements before terminating coverage under TPDES MSGP No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 11(a).
9. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of \$19,063 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid \$1,595 of the penalty. The remaining amount of \$17,468 shall be paid in 11 monthly payments of \$1,588 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 10 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the 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 that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Concrete Sand and Gravel, Inc., Docket No. 2019-0211-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 undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, achieve final stabilization at the Facility or return the area to an alternative post-mining use.
- b. Within 45 days after the effective date of this Order, submit a written certification of compliance with Ordering Provision No. 2.a. The written certification of compliance shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the 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, the Respondent's failure to comply is not a violation of this 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.
6. 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 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
 7. 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 in this Order.
 8. 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.
 9. This 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 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.
 10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
 11. 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

12/13/2021


Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, 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

11/21

Date

SOMAIYAH KURRE

Name (Printed or typed)
Authorized Representative of
Texas Concrete Sand and Gravel, Inc.

President

Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.