

**Order Type:**  
Agreed Order

**Media:**  
WQ

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
North side of County Road 4680, approximately 0.25 mile east of Private Road 137 near Boyd, Wise County (the “Site”)

**Type of Operation:**  
construction site

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third Parties:	James W. Volberding (receiver appointed through private litigation)

**Texas Register Publication Date:** May 6, 2022

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$20,212

**Total Paid to General Revenue:** \$20,212

**Total Due to General Revenue:** \$0

**Compliance History Classifications:**

Person/CN – SATISFACTORY  
Site/RN – SATISFACTORY

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** April 2, 2019; June 19, 2019

*Complaint Information:* Complainants allege a lack of controls at a construction site and that a pond was receiving silt, sediment, and debris.

**Date(s) of Investigation:** April 23, 2019; June 27, 2019

**Date(s) of NOV(s):** May 15, 2019

**Date(s) of NOE(s):** July 29, 2019

**Violation Information**

1. Failed to install and maintain best management practices (“BMPs”) at the Site [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit (“GP”) No. TXR15736V, Part III, Section G.1].
2. Failed to complete any necessary maintenance needed, based on the results of the site inspection [30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.7(b)(vii)].
3. Failed to include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site, including estimated start dates and duration of activities in the Stormwater Pollution Prevention Plan (“SWP3”) [30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.1(c)].
4. Failed to maintain a detailed site map [30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Sections F.1(g)(iii) and (g)(vi)].
5. Failed to construct a sedimentation basin, where feasible, for a common drainage location that serves an area with ten or more acres disturbed at one time [30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.2(c)(i)(A)(1)].
6. Failed to design, install, implement, and maintain pollution prevention measures to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present at the Site to precipitation and to stormwater [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES GP No. TXR15736V, Part III, Section G.4(b)].
7. Failed to take all reasonable steps to minimize or prevent any discharge in violation of TPDES GP No. TXR15736V that has a reasonable likelihood of adversely affecting human health or the environment [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES GP No. TXR15736V, Part VII, Section H].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. By October 2, 2020, included a schedule in its SWP3 that provided estimated dates and duration for activities that will disturb the major portions of the Site, such as grading, roads, and stabilization practices (Violation No. 3).
2. By October 2, 2020, updated the site map in the SWP3 to reflect and represent the current Site conditions and controls and identify applicable surface waters (Violation No. 4).

**Technical Requirements:**

1. Within 30 days:
  - a. Replace all damaged and ineffective BMPs at the Site (Violation No. 1);
  - b. Implement procedures and conduct employee training to ensure necessary maintenance is completed as suggested in Site inspections to reduce and/or minimize the discharge of pollutants (Violation No. 2);
  - c. Remove and properly dispose of the trash and construction debris at the Site (Violation No. 6); and
  - d. Develop controls to contain trash and construction materials on-site (Violation No. 6).
2. Within 60 days after the effective date of this Order:
  - a. Construct a sedimentation basin or install equivalent controls to minimize the discharge of sediment from the Site (Violation No. 5);

**BOYD COUNTRY ROAD, LLC**

RN110718400

Docket No. 2019-1404-WQ-E

- b. Include the calculations and other applicable information for the sediment basin in the SWP3 (Violation No. 5); and
  - c. Make all reasonable efforts to work with the neighboring property owner(s) to remove and properly dispose of the accumulated sediment from the unnamed tributary of Walker Creek, pond, and neighboring property (Violation No. 6).
3. Submit written certification to demonstrate compliance:
    - a. Within 45 days for Technical Requirements Nos. 1.a. through 1.d.;
    - b. Within 75 days for Technical Requirements Nos. 2.a. through 2.c.
  4. In lieu of Technical Requirements Nos. 1 through 3, within 30 days Respondent may submit documentation and certification evidencing it has satisfied its obligations under TPDES GP No. TXR15736V, Part II, Section F, to terminate its coverage under the permit, ceased construction activity at the Site, and that coverage under the permit is no longer needed.

**Litigation Information**

**Date Petition(s) Filed:** August 30, 2021  
**Date Answer(s) Filed:** October 15, 2021  
**Settlement Date:** March 19, 2022

**Contact Information**

**TCEQ Attorneys:** Jess Robinson, 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:** Mark Gamble, Enforcement Division, (512) 239-2587  
**TCEQ Regional Contact:** Brent Candler, Dallas/Fort Worth Regional Office, (817) 588-5800  
**Respondent Contact:** Gregory Quail, Manager, BOYD COUNTRY ROAD, LLC, 1021 ESE Loop 323, STE 120, Tyler, Texas 75701  
**Respondent's Attorney:** William D. Farrar, William D. Farrar & Associates, PLLC, P.O. Box 130185, Tyler, Texas 75713

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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

## TCEQ

<b>DATES</b>	<b>Assigned</b>	29-Jul-2019			
	<b>PCW</b>	23-Sep-2019	<b>Screening</b>	1-Aug-2019	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	BOYD COUNTRY ROAD, LLC				
<b>Reg. Ent. Ref. No.</b>	RN110718400				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58160	<b>No. of Violations</b>	7
<b>Docket No.</b>	2019-1404-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Herbert Darling
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$19,250**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **5.0%** Adjustment **Subtotals 2, 3, & 7** **\$962**

<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

<b>Notes</b>	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	\$4,909	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$77,500	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$20,212**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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**Final Penalty Amount** **\$20,212**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$20,212**

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

Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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**PAYABLE PENALTY** **\$20,212**

Screening Date 1-Aug-2019

Docket No. 2019-1404-WQ-E

PCW

Respondent BOYD COUNTRY ROAD, LLC

Policy Revision 4 (April 2014)

Case ID No. 58160

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110718400

Media Water Quality

Enf. Coordinator Herbert Darling

### 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> )	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)** 5%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

**Screening Date** 1-Aug-2019  
**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Enf. Coordinator** Herbert Darling

**Docket No.** 2019-1404-WQ-E

**PCW**

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

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System General Permit ("TPDES GP") No. TXR15736V, Part III, Section G.1

**Violation Description** Failed to install and maintain best management practices ("BMPs") at the Site. Specifically, multiple BMPs were not being maintained and/or utilized correctly.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5.0%
Potential			x		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would 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 35 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 (June 27, 2019) to the screening date (August 1, 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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$605

**Violation Final Penalty Total** \$1,313

**This violation Final Assessed Penalty (adjusted for limits)** \$1,313

## Economic Benefit Worksheet

**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**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)	\$10,000	23-Apr-2019	8-Jul-2020	1.21	\$605	n/a	\$605

Notes for DELAYED costs

Estimated cost to replace all damaged and ineffective BMPs at the Site. Date required is the date the violation was initially documented. Final date is the estimated 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

\$10,000

**TOTAL**

\$605

**Screening Date** 1-Aug-2019  
**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Enf. Coordinator** Herbert Darling

**Docket No.** 2019-1404-WQ-E

**PCW**

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

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.7(b)(vii)

**Violation Description** Failed to complete any necessary maintenance needed, based on the results of the site inspection. Specifically, the corrective actions recommended in the April 16, 2019, April 23, 2019, and April 30, 2019 site inspections were not completed.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5.0%
Potential		x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants that would 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 35 Number of violation days

daily		<b>Violation Base Penalty</b> \$1,250
weekly		
monthly		
quarterly	x	
semiannual		
annual		
single event		

One quarterly event is recommended from the investigation date (June 27, 2019) to the screening date (August 1, 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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$15

**Violation Final Penalty Total** \$1,313

**This violation Final Assessed Penalty (adjusted for limits)** \$1,313

## Economic Benefit Worksheet

**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**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	\$250	23-Apr-2019	8-Jul-2020	1.21	\$15	n/a	\$15
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
<b>Notes for DELAYED costs</b>	Estimated cost to implement procedures and conduct employee training to ensure necessary maintenance is completed as suggested in site inspections to reduce and/or minimize the discharge of pollutants. Date required is the date the violation was initially documented. Final date is the estimated 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
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
<b>Notes for AVOIDED costs</b>							

<b>Approx. Cost of Compliance</b>	\$250	<b>TOTAL</b>	\$15
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**Screening Date** 1-Aug-2019  
**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Enf. Coordinator** Herbert Darling

**Docket No.** 2019-1404-WQ-E

**PCW**

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

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.1(c)

**Violation Description** Failed to include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site, including estimated start dates and duration of activities in the stormwater pollution prevention plan ("SWP3").

**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	1.0%
Less than 30% of the permit requirements were not met.					

**Adjustment** \$24,750

\$250

**Violation Events**

Number of Violation Events: 1      35 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$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** \$250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$18

**Violation Final Penalty Total** \$263

**This violation Final Assessed Penalty (adjusted for limits)** \$263

## Economic Benefit Worksheet

**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**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	\$250	23-Apr-2019	2-Oct-2020	1.45	\$18	n/a	\$18
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**

Estimated cost to include a schedule in the SWP3, including estimated dates and duration for the major portions of the Site, such as grading, roads, and stabilization practices. Date required is the date the violation was initially documented. Final Date is the date by which compliance was recognized.

### 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**

\$18

**Screening Date** 1-Aug-2019  
**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Enf. Coordinator** Herbert Darling

**Docket No.** 2019-1404-WQ-E

**PCW**

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

**Violation Number** 4

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.1(g)(iii) and (vi)

**Violation Description**

Failed to maintain a detailed site map. Specifically, the site map did not represent all the features and/or controls or clearly identify surface waters either at, adjacent, or in close proximity to the Site.

**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	1.0%
Less than 30% of the permit requirements were not met.					

**Adjustment** \$24,750

\$250

**Violation Events**

Number of Violation Events 1 35 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$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** \$250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$18

**Violation Final Penalty Total** \$263

**This violation Final Assessed Penalty (adjusted for limits)** \$263

## Economic Benefit Worksheet

**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	\$250	23-Apr-2019	2-Oct-2020	1.45	\$18	n/a	\$18
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
<b>Notes for DELAYED costs</b>	Estimated cost to update the site map in the SWP3 to reflect and represent the current Site conditions and controls and identify applicable surface waters. Date required is the date the violation was initially documented. Final Date is the date by which compliance was recognized.						

### 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
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
<b>Notes for AVOIDED costs</b>							

Approx. Cost of Compliance \$250

**TOTAL** \$18

**Screening Date** 1-Aug-2019  
**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Enf. Coordinator** Herbert Darling

**Docket No.** 2019-1404-WQ-E

**PCW**

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

**Violation Number** 5

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.2(c)(i)(A)(1)

**Violation Description** Failed to construct a sedimentation basin, where feasible, for a common drainage location that serves an area with ten or more acres disturbed at one time. Specifically, the pond in the middle of the Site was designated as a sediment basin, but it did not represent a sediment basin as described in the control details portion of the SWP3.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

**>> 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 2 35 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

Two monthly events are recommended from the investigation date (June 27, 2019) to the screening date (August 1, 2019).

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

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

**Violation Subtotal** \$7,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,374

**Violation Final Penalty Total** \$7,875

**This violation Final Assessed Penalty (adjusted for limits)** \$7,875

## Economic Benefit Worksheet

**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Violation No.** 5

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	\$15,000	23-Apr-2019	7-Aug-2020	1.29	\$65	\$1,293	\$1,358
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	23-Apr-2019	7-Aug-2020	1.29	\$16	n/a	\$16
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**

The engineering/construction cost is the estimated cost to construct a sediment basin or install equivalent controls in order to minimize the discharge of sediment from the Site. Date required is the date the violation was initially documented. Final date is the estimated date of compliance.

The record keeping system cost is the estimated cost to include the calculations and other applicable information for the sediment basin in the SWP3. Date required is the date the violation was initially documented. Final date is the estimated 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

\$15,250

**TOTAL**

\$1,374

**Screening Date** 1-Aug-2019  
**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Enf. Coordinator** Herbert Darling

**Docket No.** 2019-1404-WQ-E

**PCW**

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

**Violation Number** 6  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES GP No. TXR15736V, Part III, Section G.4(b)

**Violation Description**

Failed to design, install, implement, and maintain pollution prevention measures to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present at the Site to precipitation and to stormwater. Specifically, trash and other construction materials were located throughout the Site.

**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      35 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 (June 27, 2019) to the screening date (August 1, 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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$91

**Violation Final Penalty Total** \$1,313

**This violation Final Assessed Penalty (adjusted for limits)** \$1,313

## Economic Benefit Worksheet

**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Violation No.** 6

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	\$1,000	23-Apr-2019	8-Jul-2020	1.21	\$61	n/a	\$61
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	23-Apr-2019	8-Jul-2020	1.21	\$30	n/a	\$30

**Notes for DELAYED costs**

The remediation/disposal cost is the estimated cost to remove and properly dispose of the trash and construction debris at the Site. Date required is the date the violation was initially documented. Final date is the estimated date of compliance.

The other cost is the estimated cost to develop controls to contain trash and construction materials on-site. Date required is the date the violation was initially documented. Final date is the estimated 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

\$1,500

**TOTAL**

\$91

**Screening Date** 1-Aug-2019  
**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Enf. Coordinator** Herbert Darling

**Docket No.** 2019-1404-WQ-E

**PCW**

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

**Violation Number** 7

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES GP No. TXR15736V, Part VII.H

**Violation Description**

Failed to take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, a large amount of sediment had been discharged into an unnamed tributary of Walker Creek and a downstream pond located on the north side of the Site, covering approximately half of the pond in sediment.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		15.0%
	Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

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

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 2 35 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

Two monthly events are recommended from the investigation date (June 27, 2019) to the screening date (August 1, 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** \$7,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$2,788

**Violation Final Penalty Total** \$7,875

**This violation Final Assessed Penalty (adjusted for limits)** \$7,875

## Economic Benefit Worksheet

**Respondent** BOYD COUNTRY ROAD, LLC  
**Case ID No.** 58160  
**Reg. Ent. Reference No.** RN110718400  
**Media** Water Quality  
**Violation No.** 7

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	\$50,000	27-Jun-2019	7-Aug-2020	1.12	\$2,788	n/a	\$2,788
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the accumulated sediment from the creek, pond, and neighboring property. Date required is the investigation date. Final date is the estimated 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

\$50,000

**TOTAL**

\$2,788



# Compliance History Report

Compliance History Report for CN605557354, RN110718400, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

<b>Customer, Respondent, or Owner/Operator:</b>	CN605557354, BOYD COUNTRY ROAD, LLC	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	9.50
<b>Regulated Entity:</b>	RN110718400, ROLLING MEADOWS	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	14.00
<b>Complexity Points:</b>	3	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	On the north side of County Road 4680 approximately 0.25 mile east of private road 137 in Boyd, Wise County, Texas				
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX				
<b>ID Number(s):</b>	STORMWATER PERMIT TXR15736V				
<b>Compliance History Period:</b>	September 01, 2014 to August 31, 2019	<b>Rating Year:</b>	2019	<b>Rating Date:</b>	09/01/2019
<b>Date Compliance History Report Prepared:</b>	February 13, 2020				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	February 13, 2015 to February 13, 2020				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Herbert Darling			<b>Phone:</b>	(512) 239-2520

## Site and Owner/Operator History:

- |  |    |
|--|----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | NO |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A

### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/15/2019 (1558098)		
	Self Report?	NO	Classification:	Major
	Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR150000, Part III Sec F(2)(a)(ii) PERMIT		
	Description:	Failure to maintain and or install control measures according to the manufacturer's or designer's specifications resulted in non-compliance with Title 30 Texas Administrative Code (TAC) Chapter 281.25(a)(4), specifically TXR150000 Part III Section F(2)(a)(ii).		
	Self Report?	NO	Classification:	Moderate

Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR150000, Part III Sec F(7)(b)(i) PERMIT TXR150000, Part III Sec F(7)(b)(vii) PERMIT		
Description:	Failure to identify and correct all incidents of noncompliance resulted in non-compliance with Title 30 Texas Administrative Code (TAC) Chapter 281.25(a)(4), specifically TXR150000 Part III Section F(7)(b)(i and vii).		
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR150000, Part III Sec F(1)(c) PERMIT		
Description:	Failure to document the intended schedule or sequence of activities for major portions of the site resulted in non-compliance with Title 30 Texas Administrative Code (TAC) Chapter 281.25(a)(4), specifically TXR150000 Part III Section F(1)(c).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR150000, Part III Sec F(1)(g)(iii) PERMIT TXR150000, Part III Sec F(1)(g)(vi) PERMIT		
Description:	Failure to prepare and or maintain a current and complete site map resulted in non-compliance with Title 30 Texas Administrative Code (TAC) Chapter 281.25(a)(4), specifically TXR150000 Part III Section F(1)(g)(iii and vi).		
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR150000, Part III Sec F(2)(c)(i)(A)(1) PERMIT TXR150000, Part III Sec F(2)(c)(i)(A)(3) PERMIT		
Description:	Failure to properly design, install, or document the use of sediment basin(s) within the development resulted in non-compliance with Title 30 Texas Administrative Code (TAC) Chapter 281.25(a)(4), specifically TXR150000 Part III Section F(2)(c)(i)(A)(1 and 3).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR150000, Part III Sec G(4)(b) PERMIT		
Description:	Failure to minimize the exposure of building materials and trash resulted in non-compliance with Title 30 Texas Administrative Code (TAC) Chapter 281.25(a)(4), specifically TXR150000 Part III Section G(4)(b).		

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BOYD COUNTRY ROAD, LLC;  
RN110718400**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2019-1404-WQ-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BOYD COUNTRY ROAD, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by William D. Farrar, together stipulate that:

1. Respondent owns and operates a construction site located on the north side of County Road 4680, approximately 0.25 mile east of Private Road 137 near Boyd, Wise County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to the TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of twenty thousand two hundred twelve dollars (\$20,212.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid five hundred seventy-seven dollars (\$577.00) of the penalty. The remaining amount of nineteen thousand six hundred thirty-five dollars (\$19,635.00) shall be paid in thirty-five (35) monthly payments of five hundred sixty-one dollars (\$561.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings if the Executive Director determines Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Site by October 2, 2020:
  - a. Included a schedule in its Stormwater Pollution Prevention Plan (“SWP3”) that provided estimated dates and duration for activities that will disturb the major portions of the Site, such as grading, roads, and stabilization practices (Allegation No. 1.c.); and
  - b. Updated the site map in the SWP3 to reflect and represent the current Site conditions and controls and identify applicable surface waters (Allegation No. 1.d.).

## II. ALLEGATIONS

1. During an investigation conducted on and around June 27, 2019, an investigator documented that Respondent:
  - a. Failed to install and maintain best management practices (“BMPs”) at the Site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit (“GP”) No. TXR15736V, Part III, Section G.1. Specifically, multiple BMPs were not being maintained and/or utilized correctly;
  - b. Failed to complete any necessary maintenance needed, based on the results of the site inspection, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.7(b)(vii). Specifically, the corrective actions recommended in the April 16, 2019, April 23, 2019, and April 30, 2019 site inspections were not completed;
  - c. Failed to include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site, including estimated start dates and duration of activities in the SWP3, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.1(c);
  - d. Failed to maintain a detailed site map, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Sections F.1(g)(iii) and (g)(vi). Specifically, the site map did not represent all the features and/or controls or clearly identify surface waters either at, adjacent, or in close proximity to the Site;
  - e. Failed to construct a sedimentation basin, where feasible, for a common drainage location that serves an area with ten or more acres disturbed at one time, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES GP No. TXR15736V, Part III, Section F.2(c)(i)(A)(1). Specifically, the pond in the middle of the Site was designated as a sediment basin, but it did not represent a sediment basin as described in the control details portion of the SWP3;
  - f. Failed to design, install, implement, and maintain pollution prevention measures to minimize the exposure of building materials, building products, construction

wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present at the Site to precipitation and to stormwater, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES GP No. TXR15736V, Part III, Section G.4(b). Specifically, trash and other construction materials were located throughout the Site; and

- g. Failed to take all reasonable steps to minimize or prevent any discharge in violation of TPDES GP No. TXR15736V that has a reasonable likelihood of adversely affecting human health or the environment, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES GP No. TXR15736V, Part VII, Section H. Specifically, a large amount of sediment had been discharged into an unnamed tributary of Walker Creek and a downstream pond located on the north side of the Site, covering approximately half the pond in sediment.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: BOYD COUNTRY ROAD, LLC, Docket No. 2019-1404-WQ-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

2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Replace all damaged and ineffective BMPs at the Site, in accordance with TPDES GP No. TXR15736V, Part III, Section G.1 (Allegation No. 1.a.);
    - ii. Implement procedures and conduct employee training to ensure necessary maintenance is completed as suggested in Site inspections to reduce and/or minimize the discharge of pollutants, in accordance with TPDES GP. No. TXR15736V, Part III, Section F.7(b)(vii) (Allegation No. 1.b.);
    - iii. Remove and properly dispose of the trash and construction debris at the Site, in accordance with TPDES GP No. TXR15736V, Part III, Section G.4(b) (Allegation No. 1.f.); and
    - iv. Develop controls to contain trash and construction materials on-site (Allegation No. 1.f.).
  - b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.a.iv.

- c. Within 60 days after the effective date of this Order:
  - i. Construct a sedimentation basin or install equivalent controls to minimize the discharge of sediment from the Site, in accordance with TPDES GP No. TXR15736V, Part III, Section F.2(c)(i)(A)(1) (Allegation No. 1.e.);
  - ii. Include the calculations and other applicable information for the sediment basin in the SWP3, in accordance with TPDES GP No. TXR15736V, Part III, Section F.2(c)(i)(A)(1) (Allegation No. 1.e.); and
  - iii. Make all reasonable efforts, as determined by the Executive Director, to work with the neighboring property owner(s) to remove and properly dispose of the accumulated sediment from the unnamed tributary of Walker Creek, pond, and neighboring property (Allegation No. 1.g.).
- d. Within 75 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provisions Nos. 2.c.i. through 2.c.iii.
- e. In lieu of Ordering Provisions Nos. 2.a. through 2.d., within 30 days after the effective date of this Order, Respondent may submit documentation and certification evidencing it has satisfied its obligations under TPDES GP No. TXR15736V, Part II, Section F, to terminate its coverage under the permit, ceased construction activity at the Site, and that coverage under the permit is no longer needed. Such documentation and certification shall be in accordance with Ordering Provision No. 2.f.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

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

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

and:

Water Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

- 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 Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
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. This Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

*Erin E. Chanallop*

*05/23/22*

\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
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 in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's office of any future enforcement actions; and
- The TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

*Gregory Quail*  
*Volberding*

Signature - Gregory Quail, Manager  
BOYD COUNTRY ROAD, LLC  
1021 ESE Loop 323, STE 120  
Tyler, Texas 75701

*Receiver*

\_\_\_\_\_  
Date

*19 March 2022*

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

*See Attached Letter*