

HMI Builders, LLC
 RN110314887
 Docket No. 2019-1633-WQ-E

Order Type:
 Default Order

Media:
 WQ

Small Business:
 Yes

Location(s) Where Violation(s) Occurred:
 approximately 1.5 miles west of the intersection of United States Highway 83 and United States Highway 84 on the south side of United States Highway 83, Tuscola, Taylor 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:	None

Texas Register Publication Date: April 29, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$6,255

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$6,255

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): N/A

Date(s) of Investigation: July 9, 2019

Date(s) of NOV(s): November 30, 2018; December 12, 2018

Date(s) of NOE(s): September 4, 2019

HMI Builders, LLC
RN110314887
Docket No. 2019-1633-WQ-E

Violation Information

1. Failed to post the TCEQ site notice near the main entrance of the construction site [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15706O, Part III, Section D.2].
2. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts [TEX. WATER CODE § 26.121(a)(2), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15706O, Part III, Section F.6(d)].
3. Failed to design, install, implement, and maintain effective 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)(2), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15706O, Part III, Section G.4(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

No longer owns or operates the Site as of December 26, 2019.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed: August 20, 2021

Date Green Card(s) Signed: August 30, 2021

Contact Information

TCEQ Attorneys: Casey Kurnath, 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: Alyssa Loveday, Enforcement, (512) 239-5504

TCEQ Regional Contact: Michael Taylor, P.G., Abilene Regional Office, (325) 698-9674

Respondent Contact: Bryan Kelly Holamon, Manager, HMI Builders, LLC, 4101 Sayles Boulevard, Abilene, Texas 79605-7214

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	9-Sep-2019	Screening	12-Sep-2019	EPA Due	
	PCW	3-Mar-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	HMI Builders, LLC				
Reg. Ent. Ref. No.	RN110314887				
Facility/Site Region	3-Abilene	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	58584	No. of Violations	3
Docket No.	2019-1633-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Alyssa Loveday
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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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	30.0% Adjustment	Subtotals 2, 3, & 7	\$1,125
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Notes: Enhancement for two NOV's 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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,380
 Estimated Cost of Compliance: \$1,350
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	28.3% Adjustment	\$1,380
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance associated with Violation Nos. 1, 2, and 3.

Final Penalty Amount	\$6,255
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,255
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DEFERRAL	Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$6,255
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Screening Date 12-Sep-2019
Respondent HMI Builders, LLC
Case ID No. 58584
Reg. Ent. Reference No. RN110314887
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2019-1633-WQ-E

PCW

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

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>)	2	10%
	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) 30%

>> 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 two NOVs with same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 12-Sep-2019
Respondent HMI Builders, LLC
Case ID No. 58584
Reg. Ent. Reference No. RN110314887
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2019-1633-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 ("TPDES") General Permit No. TXR157060, Part III, Section D.2

Violation Description Failed to post the TCEQ site notice near the main entrance of the construction 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	Major	Moderate	Minor	Percent
			x		
100% of the permit requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 65 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$2,085

This violation Final Assessed Penalty (adjusted for limits) \$2,085

Economic Benefit Worksheet

Respondent HMI Builders, LLC
Case ID No. 58584
Reg. Ent. Reference No. RN110314887
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)				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				0.00	\$0	\$0	\$0
Other (as needed)	\$100	9-Jul-2019	26-Dec-2019	0.47	\$2	\$100	\$102

Notes for AVOIDED costs

Estimated avoided cost to post the TCEQ site notice near the main entrance. Date required is the investigation date. Final date is the date the Respondent sold the property and ceased operating at the Site.

Approx. Cost of Compliance

\$100

TOTAL

\$102

Screening Date 12-Sep-2019
Respondent HMI Builders, LLC
Case ID No. 58584
Reg. Ent. Reference No. RN110314887
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2019-1633-WQ-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(2), and TPDES General Permit No. TXR157060, Part III, Section F.6(d)

Violation Description Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, sediment escaped the site located at 109 Rafter T Drive and accumulated on Rafter T Drive.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the investigation date (July 9, 2019) to the screening date (September 12, 2019).

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent HMI Builders, LLC
Case ID No. 58584
Reg. Ent. Reference No. RN110314887
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				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	\$250	9-Jul-2019	26-Dec-2019	0.47	\$6	\$250	\$256
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to remove and properly dispose of the accumulated sediment in the street from 109 Rafter T Drive. Date required is the investigation date. Final date is the date the Respondent sold the property and ceased operating at the Site.

Approx. Cost of Compliance

\$250

TOTAL

\$256

Screening Date 12-Sep-2019
Respondent HMI Builders, LLC
Case ID No. 58584
Reg. Ent. Reference No. RN110314887
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2019-1633-WQ-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(2), and TPDES General Permit No. TXR15706O, Part III, Section G.4(b)

Violation Description

Failed to design, install, implement, and maintain effective 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, scattered litter and construction debris such as trash, pallets, and lumber were observed at 109 Rafter T Drive.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> 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

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the investigation date (July 9, 2019) to the screening date (September 12, 2019).

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent HMI Builders, LLC
Case ID No. 58584
Reg. Ent. Reference No. RN110314887
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)				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	\$500	9-Jul-2019	26-Dec-2019	0.47	\$11	\$500	\$511
Other (as needed)	\$500	9-Jul-2019	26-Dec-2019	0.47	\$11	\$500	\$511

Notes for AVOIDED costs

The estimated avoided cost to remove and properly dispose of the trash and construction debris at the Site. Date required is the investigation date. Final date is the date the Respondent sold the property and ceased operating at the Site.

Other estimated avoided cost to develop controls to contain trash and construction debris on-site. Date required is the investigation date. Final date is the date the Respondent sold the property and ceased operating at the Site.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,022

Description: TPDES CGP Part II, Section E (3)(c) PERMIT
 Failure to post a completed construction site notice at the construction site.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TPDES CGP Part III, Section F (6)(d) PERMIT
 Description: Failure to remove accumulations of sediment exiting the construction site.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TPDES CGP Part III, Section F (2)(a)(iii) PERMIT
 Description: Failure to minimize the off-site transport of litter and construction debris.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TPDES CGP Part III, Section F(2)(c)(i)(B) PERMIT
 Description: Failure to install perimeter stormwater controls at the site.

2 Date: 12/12/2018 (1532555)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TPDES CGP Part II, Section E (3)(c) PERMIT
 Description: Failure to post a completed construction site notice at the construction site.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TPDES CGP Part III, Section F (6)(d) PERMIT
 Description: Failure to remove accumulations of sediment exiting the construction site.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TPDES CGP Part III, Section F(2)(c)(i)(B) PERMIT
 Description: Failure to install perimeter stormwater controls at the site.

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
HMI BUILDERS, LLC;
RN110314887**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2019-1633-WQ-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is HMI Builders, LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a construction site located at approximately 1.5 miles west of the intersection of United States Highway 83 and United States Highway 84 on the south side of United States Highway 83 in Tuscola, Taylor 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. During an investigation conducted on July 9, 2019, an investigator documented that Respondent:
 - a. Failed to post the TCEQ site notice near the main entrance of the construction site;
 - b. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, sediment escaped the site located at 109 Rafter T Drive and accumulated on Rafter T Drive; and
 - c. Failed to design, install, implement, and maintain effective 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, scattered litter and construction debris such as trash, pallets, and lumber were observed at 109 Rafter T Drive.
3. The Executive Director recognizes that Respondent no longer owns or operates the Site as of December 26, 2019.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against HMI Builders, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on August 20, 2021.
5. By letter dated August 20, 2021, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 30, 2021, as evidenced by the signature on the card.

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

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, Respondent failed to post the TCEQ site notice near the main entrance of the construction site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15706O, Part III, Section D.2.
3. As evidenced by Finding of Fact No. 2.b, Respondent failed to remove accumulations of sediment at a frequency that minimizes off-site impacts, in violation of TEX. WATER CODE § 26.121(a)(2), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15706O, Part III, Section F.6(d).
4. As evidenced by Finding of Fact No. 2.c, Respondent failed to design, install, implement, and maintain effective 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)(2), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15706O, Part III, Section G.4(b).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of six thousand two hundred fifty-five dollars (\$6,255.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of six thousand two hundred fifty-five dollars (\$6,255.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: HMI Builders, LLC; Docket No. 2019-1633-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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF CASEY KURNATH

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against HMI Builders, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on August 20, 2021.

The EDPRP was mailed to Respondent's last known address on August 20, 2021, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on August 30, 2021, as evidenced by the signature on the card.

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

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

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

Casey Kurnath

Declarant