

**Executive Summary – Enforcement Matter – Case No. 59962**  
**K-C LEASE SERVICE, INC.**  
**RN108770850**  
**Docket No. 2020-1363-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Matagorda Construction and Materials, 2221 Highway 35 South, Bay City, Matagorda 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: None

**Texas Register Publication Date:** September 17, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$30,563

**Amount Deferred for Expedited Settlement:** \$6,112

**Total Paid to General Revenue:** \$686

**Total Due to General Revenue:** \$23,765

Payment Plan: 35 payments of \$679 each

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** \$15,240

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 16, 2019

**Date(s) of NOE(s):** August 18, 2020

**Executive Summary – Enforcement Matter – Case No. 59962**  
**K-C LEASE SERVICE, INC.**  
**RN108770850**  
**Docket No. 2020-1363-WQ-E**

***Violation Information***

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0001495 expired on September 22, 2016 and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].
2. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05CN87 expired on August 14, 2016 and the Respondent continued to operate [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121 and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. On January 8, 2020, developed and implemented a stormwater pollution prevention plan, submitted a Notice of Intent, and obtained authorization to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05EN19 ; and
- b. On January 20, 2020, registered the Site as an APO.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Alejandro Laje, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2547; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Bruce Krauskopf, President, K-C LEASE SERVICE, INC., P.O. Box 428, Louise, Texas 77455

**Respondent's Attorney:** Shea A. Krauskopf, Wadler, Perches, Hundl & Kerlick, 101 West Burleson Street, Wharton, Texas 77488



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

|              |                 |             |                  |             |                |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| <b>DATES</b> | <b>Assigned</b> | 24-Aug-2020 |                  |             |                |
|              | <b>PCW</b>      | 24-Jun-2021 | <b>Screening</b> | 12-Oct-2020 | <b>EPA Due</b> |

|  |                         |                           |       |  |  |
|--|-------------------------|---------------------------|-------|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                         |                           |       |  |  |
| <b>Respondent</b>                      | K-C LEASE SERVICE, INC. |                           |       |  |  |
| <b>Reg. Ent. Ref. No.</b>              | RN108770850             |                           |       |  |  |
| <b>Facility/Site Region</b>            | 12-Houston              | <b>Major/Minor Source</b> | Minor |  |  |

|  |                                |                              |                    |                          |          |
|--|--------------------------------|------------------------------|--------------------|--------------------------|----------|
| <b>CASE INFORMATION</b>                |                                |                              |                    |                          |          |
| <b>Enf./Case ID No.</b>                | 59962                          | <b>No. of Violations</b>     | 1                  |                          |          |
| <b>Docket No.</b>                      | 2020-1363-WQ-E                 | <b>Order Type</b>            | 1660               |                          |          |
| <b>Media Program(s)</b>                | Aggregate Production Operation | <b>Government/Non-Profit</b> | No                 |                          |          |
| <b>Multi-Media</b>                     | Water Quality                  | <b>Enf. Coordinator</b>      | Alejandro Laje     |                          |          |
|  |                                | <b>EC's Team</b>             | Enforcement Team 1 |                          |          |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$5,000                        | <b>Maximum</b>               | \$10,000           | <b>Violation Maximum</b> | \$25,000 |

## Penalty Calculation Section

|   |                   |                |
|---|-------------------|----------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$2,000</b> |
|---|-------------------|----------------|

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

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

|                           |                          |                                |               |
|---------------------------|--------------------------|--------------------------------|---------------|
| <b>Compliance History</b> | <b>-10.0%</b> Adjustment | <b>Subtotals 2, 3, &amp; 7</b> | <b>-\$200</b> |
|---------------------------|--------------------------|--------------------------------|---------------|

|              |  |
|--------------|--|
| <b>Notes</b> | Reduction for High Performer classification. |
|--------------|--|

|                    |    |                         |                   |            |
|--------------------|----|-------------------------|-------------------|------------|
| <b>Culpability</b> | No | <b>0.0%</b> Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
|--------------------|----|-------------------------|-------------------|------------|

|              |  |
|--------------|--|
| <b>Notes</b> | The Respondent does not meet the culpability criteria. |
|--------------|--|

|  |                   |               |
|--|-------------------|---------------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | <b>-\$500</b> |
|--|-------------------|---------------|

|                         |                          |                   |            |
|-------------------------|--------------------------|-------------------|------------|
| <b>Economic Benefit</b> | <b>0.0%</b> Enhancement* | <b>Subtotal 6</b> | <b>\$0</b> |
|-------------------------|--------------------------|-------------------|------------|

|                              |         |                                   |
|------------------------------|---------|-----------------------------------|
| Total EB Amounts             | \$3,460 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$3,405 |                                   |

|                             |                       |                |
|-----------------------------|-----------------------|----------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$1,300</b> |
|-----------------------------|-----------------------|----------------|

|   |                          |                |
|---|--------------------------|----------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | <b>266.2%</b> Adjustment | <b>\$3,460</b> |
|---|--------------------------|----------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Recommended enhancement to capture the avoided cost of compliance associated with the violation. |
|--------------|--|

|                             |                |
|-----------------------------|----------------|
| <b>Final Penalty Amount</b> | <b>\$4,760</b> |
|-----------------------------|----------------|

|                                   |                               |                 |
|-----------------------------------|-------------------------------|-----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$20,000</b> |
|-----------------------------------|-------------------------------|-----------------|

|              |   |
|--------------|---|
| <b>Notes</b> | The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102. |
|--------------|---|

|                 |                                   |                 |
|-----------------|-----------------------------------|-----------------|
| <b>DEFERRAL</b> | <b>20.0%</b> Reduction Adjustment | <b>-\$4,000</b> |
|-----------------|-----------------------------------|-----------------|

Reduces the Final Assessed Penalty by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral offered for expedited settlement. |
|--------------|--|

|                        |                 |
|------------------------|-----------------|
| <b>PAYABLE PENALTY</b> | <b>\$16,000</b> |
|------------------------|-----------------|

Screening Date 12-Oct-2020

Docket No. 2020-1363-WQ-E

PCW

Respondent K-C LEASE SERVICE, INC.

Policy Revision 4 (April 2014)

Case ID No. 59962

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108770850

Media Aggregate Production Operation

Enf. Coordinator Alejandro Laje

### Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

#### >> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -10%

**Screening Date** 12-Oct-2020  
**Respondent** K-C LEASE SERVICE, INC.  
**Case ID No.** 59962  
**Reg. Ent. Reference No.** RN108770850

**Docket No.** 2020-1363-WQ-E

**PCW**

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

**Media** Aggregate Production Operation  
**Enf. Coordinator** Alejandro Laje

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 342.25(d)

**Violation Description** Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued. Specifically, APO Registration No. AP0001495 expired on September 22, 2016 and the Respondent continued to operate.

**Base Penalty** \$10,000

**>> 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     |          |       | 5.0%    |

100% of the rule requirement was not met.

**Adjustment** \$9,500

\$500

**Violation Events**

Number of Violation Events 4 1215 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

**Violation Base Penalty** \$2,000

Four single events are recommended.

**Good Faith Efforts to Comply**

25.0%

Reduction \$500

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

Notes The Respondent achieved compliance on January 20, 2020.

**Violation Subtotal** \$1,500

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

**Statutory Limit Test**

**Estimated EB Amount** \$3,460

**Violation Final Penalty Total** \$4,760

**This violation Final Assessed Penalty (adjusted for limits)** \$20,000

## Economic Benefit Worksheet

**Respondent** K-C LEASE SERVICE, INC.  
**Case ID No.** 59962  
**Reg. Ent. Reference No.** RN108770850  
**Media** Aggregate Production Operation  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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        | \$3,405 | 22-Sep-2019 | 20-Jan-2020 | 0.33 | \$55 | \$3,405 | \$3,460 |
| Other (as needed)             |         |             |             | 0.00 | \$0  | \$0     | \$0     |

Notes for AVOIDED costs

Actual cost to register the Site as an APO including the accrued costs and interest of prior periods plus the Item Cost of the current period. Date required is the end date of the last period of noncompliance and the final date is the compliance date.

Approx. Cost of Compliance

\$3,405

**TOTAL**

\$3,460



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

|              |                 |             |                  |             |                |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| <b>DATES</b> | <b>Assigned</b> | 24-Aug-2020 |                  |             |                |
|              | <b>PCW</b>      | 24-Jun-2021 | <b>Screening</b> | 12-Oct-2020 | <b>EPA Due</b> |

|  |                         |                           |       |  |  |
|--|-------------------------|---------------------------|-------|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                         |                           |       |  |  |
| <b>Respondent</b>                      | K-C LEASE SERVICE, INC. |                           |       |  |  |
| <b>Reg. Ent. Ref. No.</b>              | RN108770850             |                           |       |  |  |
| <b>Facility/Site Region</b>            | 12-Houston              | <b>Major/Minor Source</b> | Minor |  |  |

|  |                                |                              |                    |  |  |
|--|--------------------------------|------------------------------|--------------------|--|--|
| <b>CASE INFORMATION</b>                |                                |                              |                    |  |  |
| <b>Enf./Case ID No.</b>                | 59962                          | <b>No. of Violations</b>     | 1                  |  |  |
| <b>Docket No.</b>                      | 2020-1363-WQ-E                 | <b>Order Type</b>            | 1660               |  |  |
| <b>Media Program(s)</b>                | Water Quality                  | <b>Government/Non-Profit</b> | No                 |  |  |
| <b>Multi-Media</b>                     | Aggregate Production Operation | <b>Enf. Coordinator</b>      | Alejandro Laje     |  |  |
|  |                                | <b>EC's Team</b>             | Enforcement Team 1 |  |  |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                            | <b>Maximum</b>               | \$25,000           |  |  |

## Penalty Calculation Section

|   |                   |                 |
|---|-------------------|-----------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$16,250</b> |
|---|-------------------|-----------------|

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

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

|                           |                          |                                |                 |
|---------------------------|--------------------------|--------------------------------|-----------------|
| <b>Compliance History</b> | <b>-10.0%</b> Adjustment | <b>Subtotals 2, 3, &amp; 7</b> | <b>-\$1,625</b> |
|---------------------------|--------------------------|--------------------------------|-----------------|

|              |  |
|--------------|--|
| <b>Notes</b> | Reduction for High Performer classification. |
|--------------|--|

|                    |           |                         |                   |            |
|--------------------|-----------|-------------------------|-------------------|------------|
| <b>Culpability</b> | <b>No</b> | <b>0.0%</b> Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
|--------------------|-----------|-------------------------|-------------------|------------|

|              |  |
|--------------|--|
| <b>Notes</b> | The Respondent does not meet the culpability criteria. |
|--------------|--|

|  |                   |                 |
|--|-------------------|-----------------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | <b>-\$4,062</b> |
|--|-------------------|-----------------|

|                         |                          |                   |            |
|-------------------------|--------------------------|-------------------|------------|
| <b>Economic Benefit</b> | <b>0.0%</b> Enhancement* | <b>Subtotal 6</b> | <b>\$0</b> |
|-------------------------|--------------------------|-------------------|------------|

|                              |         |                                   |
|------------------------------|---------|-----------------------------------|
| Total EB Amounts             | \$429   | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$2,725 |                                   |

|                             |                       |                 |
|-----------------------------|-----------------------|-----------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$10,563</b> |
|-----------------------------|-----------------------|-----------------|

|   |                        |            |
|---|------------------------|------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | <b>0.0%</b> Adjustment | <b>\$0</b> |
|---|------------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> |  |
|--------------|--|

|                             |                 |
|-----------------------------|-----------------|
| <b>Final Penalty Amount</b> | <b>\$10,563</b> |
|-----------------------------|-----------------|

|                                   |                               |                 |
|-----------------------------------|-------------------------------|-----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$10,563</b> |
|-----------------------------------|-------------------------------|-----------------|

|                 |                                   |                 |
|-----------------|-----------------------------------|-----------------|
| <b>DEFERRAL</b> | <b>20.0%</b> Reduction Adjustment | <b>-\$2,112</b> |
|-----------------|-----------------------------------|-----------------|

Reduces the Final Assessed Penalty by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral offered for expedited settlement. |
|--------------|--|

|                        |                |
|------------------------|----------------|
| <b>PAYABLE PENALTY</b> | <b>\$8,451</b> |
|------------------------|----------------|

**Screening Date** 12-Oct-2020

**Docket No.** 2020-1363-WQ-E

**PCW**

**Respondent** K-C LEASE SERVICE, INC.

*Policy Revision 4 (April 2014)*

**Case ID No.** 59962

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN108770850

**Media** Water Quality

**Enf. Coordinator** Alejandro Laje

### Compliance History Worksheet

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

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

**Adjustment Percentage (Subtotal 2)** 0%

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

No

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

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

**>> Compliance History Summary**

**Compliance History Notes**

Reduction for High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%



**Screening Date** 12-Oct-2020  
**Respondent** K-C LEASE SERVICE, INC.  
**Case ID No.** 59962  
**Reg. Ent. Reference No.** RN108770850  
**Media** Water Quality  
**Enf. Coordinator** Alejandro Laje

**Docket No.** 2020-1363-WQ-E

**PCW**

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

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121 and 40 Code of Federal Regulations § 122.26(c)

**Violation Description** Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05CN87 expired on August 14, 2016 and the Respondent continued to operate.

**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 rule requirements were not met. |               |       |          |       |         |

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 13 1150 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

**Violation Base Penalty** \$16,250

Thirteen quarterly events are recommended, calculated from the permit application grace period end date (November 14, 2016) to the date of compliance (January 8, 2020).

**Good Faith Efforts to Comply**

25.0%

Reduction \$4,062

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

Notes The Respondent achieved compliance on January 8, 2020.

**Violation Subtotal** \$12,188

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

**Statutory Limit Test**

**Estimated EB Amount** \$429

**Violation Final Penalty Total** \$10,563

**This violation Final Assessed Penalty (adjusted for limits)** \$10,563

## Economic Benefit Worksheet

**Respondent** K-C LEASE SERVICE, INC.  
**Case ID No.** 59962  
**Reg. Ent. Reference No.** RN108770850  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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             | \$2,725 | 14-Nov-2016 | 8-Jan-2020 | 3.15 | \$429 | n/a | \$429 |
| Other (as needed)        |         |             |            | 0.00 | \$0   | n/a | \$0   |

#### Notes for DELAYED costs

Estimated cost to develop and implement a stormwater pollution prevention plan, submit a Notice of Intent, and obtain authorization to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05EN19. Date required is the permit application grace period end date and the 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

\$2,725

**TOTAL**

\$429

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 CN604930339, RN108770850, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN604930339, K-C LEASE SERVICE, INC. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN108770850, MATAGORDA CONSTRUCTION AND MATERIALS **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 5 **Repeat Violator:** NO

**CH Group:** 04 - Mining

**Location:** 2221 Texas State Highway 35 South in Bay City, Matagorda County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
STORMWATER PERMIT TXR05EN19

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** March 30, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 30, 2016 to March 30, 2021

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

**Name:** Alejandro Laje

**Phone:** (512) 239-2547

## **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.

N/A

### **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  
K-C LEASE SERVICE, INC.  
RN108770850**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2020-1363-WQ-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding K-C LEASE SERVICE, INC. (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26 and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Shea A. Krauskopf of the law firm of Wadler, Perches, Hundl & Kerlick, together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is an operator, as defined in TEX. WATER CODE § 28A.001(4), of an aggregate production operation ("APO") located at 2221 Texas State Highway 35 South in Bay City, Matagorda County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1). 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 the 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 the Respondent is subject to 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, 28A 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 the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$30,563 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$686 of the penalty and \$6,112 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order.

The remaining amount of \$23,765, of the undeferred penalty shall be paid in 35 monthly payments of \$679 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.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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 that the Respondent has not complied with one or more of the terms or conditions 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 compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Site:
  - a. On January 8, 2020, developed and implemented a stormwater pollution prevention plan, submitted a Notice of Intent, and obtained authorization to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05EN19 ; and
  - b. On January 20, 2020, registered the Site as an APO.

## **II. ALLEGATIONS**

During an investigation conducted on December 16, 2019, an investigator documented that the Respondent:

1. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d). Specifically, APO Registration No. APO001495 expired on September 22, 2016 and the Respondent continued to operate.

2. Failed to maintain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121 and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under TPDES MSGP No. TXR05CN87 expired on August 14, 2016 and the Respondent continued to operate.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the 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 action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: K-C LEASE SERVICE, INC., Docket No. 2020-1363-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. All relief not expressly granted in this Order is denied.
3. 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 Site operations referenced in this Order.
4. 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.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This 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.
7. 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.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.



**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

\_\_\_\_\_  
Date

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

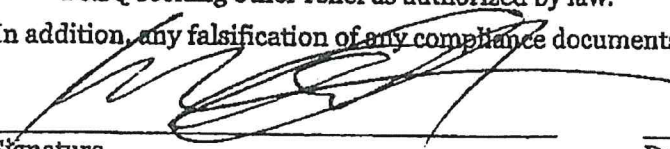
\_\_\_\_\_  
2/11/2022  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
8-4-21  
\_\_\_\_\_  
Date

*Bruce Krauskopf*  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
K-C LEASE SERVICE, 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.