

**Executive Summary – Enforcement Matter – Case No. 60065
Covia Holdings Corporation
RN100219120
Docket No. 2020-1476-IWD-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Unimin Texas Troup Facility I, located approximately one mile southwest of the intersection of Farm-to-Market Road 856 and Farm-to-Market Road 13, Cherokee County

Type of Operation:

Ball clay mine

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 14, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,563

Amount Deferred for Expedited Settlement: \$1,912

Total Paid to General Revenue: \$7,651

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 28, 2020

Date(s) of NOE(s): November 4, 2020

**Executive Summary – Enforcement Matter – Case No. 60065
Covia Holdings Corporation
RN100219120
Docket No. 2020-1476-IWD-E**

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids and aluminum [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002973000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 002, 005, 006, and 206].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent conducted an internal audit, held employee training to ensure adherence to standard operating procedures and achieved compliance with the permitted effluent limitations by April 30, 2020.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alyssa Loveday, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-5504; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Douglas S. Losee, Vice President - Environmental, Covia Holdings Corporation, 2829 Technology Forest Boulevard, Suite 100, The Woodlands, Texas 77381

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 9-Nov-2020 | Screening | 12-Nov-2020 | EPA Due | |
| | PCW | 17-Nov-2020 | | | | |

| | |
|--|----------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Covia Holdings Corporation |
| Reg. Ent. Ref. No. | RN100219120 |
| Facility/Site Region | 5-Tyler |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|---------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 60065 | No. of Violations | 2 |
| Docket No. | 2020-1476-IWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Stephanie Frederick |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|-----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$11,250 |
|---|-------------------|-----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | | |
|---------------------------|--------------|------------|--------------------------------|----------------|
| Compliance History | 10.0% | Adjustment | Subtotals 2, 3, & 7 | \$1,125 |
|---------------------------|--------------|------------|--------------------------------|----------------|

| | |
|-------|--|
| Notes | Enhancement for two months of self-reported effluent violations. |
|-------|--|

| | | | | |
|--------------------|-------------|-------------|-------------------|------------|
| Culpability | 0.0% | Enhancement | Subtotal 4 | \$0 |
|--------------------|-------------|-------------|-------------------|------------|

| | |
|-------|--|
| Notes | The Respondent does not meet the culpability criteria. |
|-------|--|

| | | |
|--|-------------------|-----------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | -\$2,812 |
|--|-------------------|-----------------|

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

| | | |
|------------------------------|---------|-----------------------------------|
| Total EB Amounts | \$84 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$2,020 | |

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$9,563 |
|-----------------------------|-----------------------|----------------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|-------|--|
| Notes | |
|-------|--|

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$9,563 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$9,563 |
|-----------------------------------|-------------------------------|----------------|

| | | | | |
|-----------------|--------------|-----------|-------------------|-----------------|
| DEFERRAL | 20.0% | Reduction | Adjustment | -\$1,912 |
|-----------------|--------------|-----------|-------------------|-----------------|

Reduces the Final Assessed Penalty by the indicated percentage.

| | |
|-------|--|
| Notes | Deferral offered for expedited settlement. |
|-------|--|

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$7,651 |
|------------------------|----------------|

Screening Date 12-Nov-2020

Docket No. 2020-1476-IWD-E

PCW

Respondent Covia Holdings Corporation

Policy Revision 4 (April 2014)

Case ID No. 60065

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100219120

Media Water Quality

Enf. Coordinator Stephanie Frederick

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>) | 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) 10%

>> **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 months of self-reported effluent violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 10%

Screening Date 12-Nov-2020 **Docket No.** 2020-1476-IWD-E **PCW**
Respondent Covia Holdings Corporation *Policy Revision 4 (April 2014)*
Case ID No. 60065 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN100219120
Media Water Quality
Enf. Coordinator Stephanie Frederick

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002973000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 002 and 005
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.
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

Violation Subtotal \$1,250

Violation Events

Number of Violation Events: 3 92 Number of violation days

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

Violation Base Penalty \$3,750

Three quarterly events are recommended for the quarters containing the months of June 2019 and March 2020 for Outfall No. 002, and January 2020 for Outfall No. 005.

Good Faith Efforts to Comply 25.0% Reduction \$937

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

Notes The Respondent achieved compliance on April 30, 2020, prior to the Notice of Enforcement dated November 4, 2020.

Violation Subtotal \$2,813

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

Estimated EB Amount \$84 **Violation Final Penalty Total** \$3,188

This violation Final Assessed Penalty (adjusted for limits) \$3,188

Economic Benefit Worksheet

Respondent Covia Holdings Corporation
Case ID No. 60065
Reg. Ent. Reference No. RN100219120
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 | \$2,020 | 30-Jun-2019 | 30-Apr-2020 | 0.84 | \$84 | n/a | \$84 |
| 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

Actual cost to conduct an internal audit, hold employee training to ensure adherence to standard operating procedures and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance 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

\$2,020

TOTAL

\$84

Screening Date 12-Nov-2020
Respondent Covia Holdings Corporation
Case ID No. 60065
Reg. Ent. Reference No. RN100219120
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-1476-IWD-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), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0002973000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 006 and 206

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

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

A simplified model was used to evaluate total aluminum to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids was also considered. 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 62 Number of violation days

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

Violation Base Penalty \$7,500

Two monthly events are recommended for the months of October 2019 and January 2020.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

| | | |
|---------------|---|--|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | |

Notes

The Respondent achieved compliance on April 30, 2020, prior to the Notice of Enforcement dated November 4, 2020.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,375

This violation Final Assessed Penalty (adjusted for limits) \$6,375

Economic Benefit Worksheet

Respondent Covia Holdings Corporation
Case ID No. 60065
Reg. Ent. Reference No. RN100219120
Media Water Quality
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Delayed cost is captured in the Economic Benefit Worksheet for Violation No. 1.

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 \$0

TOTAL \$0

Covia Holdings Corporation
 TPDES Permit No. WQ0002973000
 Docket No. 2020-1476-IWD-E
 Case No. 60065

| Effluent Violation Table | | | | | | | | |
|--------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|--------------------------|--------------------------|
| Monitoring Period | Outfall No. 002 | | Outfall No. 005 | | Outfall No. 006 | | Outfall No. 206 | |
| | TSS | | TSS | | TSS | | Total Aluminum | |
| | Daily Avg. Conc. | Daily Max. Conc. | Daily Avg. Conc. | Daily Max. Conc. | Daily Avg. Conc. | Daily Max. Conc. | Daily Avg. Conc. | Daily Max. Conc. |
| | Limit =35 mg/L | Limit = 70 mg/L | Limit =35 mg/L | Limit = 70 mg/L | Limit =35 mg/L | Limit = 70 mg/L | Limit = 0.905 mg/L | Limit = 1.914 mg/L |
| June 2019 | 246 | 246 | c | c | c | c | c | c |
| October 2019 | c | c | c | c | 282 | 282 | 4.53 | 4.53 |
| January 2020 | c | c | 75 | 142 | 40 | c | 4.34 | 4.34 |
| March 2020 | 42 | c | c | c | c | c | c | c |

Avg. = average

Conc. = concentration

mg/L = milligrams per liter

c = compliant

Max. = maximum

TSS = total suspended solids

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 CN600795777, RN100219120, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600795777, Covia Holdings Corporation **Classification:** SATISFACTORY **Rating:** 0.24
Regulated Entity: RN100219120, UNIMIN TEXAS TROUP FACILITY I **Classification:** SATISFACTORY **Rating:** 0.71
Complexity Points: 12 **Repeat Violator:** NO
CH Group: 04 - Mining
Location: Approximately one mile southwest of the intersection of Farm-to-Market Road 856 and Farm-to-Market Road 13, in Cherokee County, Texas
TCEQ Region: REGION 05 - TYLER

ID Number(s):

| | |
|--|--|
| WASTEWATER PERMIT WQ0002973000 | WASTEWATER EPA ID TX0104175 |
| AIR NEW SOURCE PERMITS PERMIT 17448 | AIR NEW SOURCE PERMITS REGISTRATION 29471 |
| AIR NEW SOURCE PERMITS REGISTRATION 40623 | AIR NEW SOURCE PERMITS ACCOUNT NUMBER CJ0053G |
| AIR NEW SOURCE PERMITS AFS NUM 4807300020 | WATER QUALITY NON PERMITTED ID NUMBER TXR051608 |

AIR EMISSIONS INVENTORY ACCOUNT NUMBER CJ0053G

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

Date Compliance History Report Prepared: November 09, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 09, 2015 to November 09, 2020

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

Name: Stephanie Frederick

Phone: (512) 239-1001

Site and Owner/Operator History:

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

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

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

| | | | | | |
|--------|--------------------|-----------|---------|-------------------|-----------|
| Item 1 | November 13, 2015 | (1303412) | Item 9 | December 02, 2016 | (1392040) |
| Item 2 | February 02, 2016 | (1326520) | Item 10 | February 01, 2017 | (1405549) |
| Item 3 | June 08, 2016 | (1347233) | Item 11 | March 07, 2017 | (1412630) |
| Item 4 | July 05, 2016 | (1360626) | Item 12 | April 07, 2017 | (1419143) |
| Item 5 | August 02, 2016 | (1367070) | Item 13 | May 16, 2017 | (1426776) |
| Item 6 | September 01, 2016 | (1373792) | Item 14 | June 12, 2017 | (1426777) |
| Item 7 | October 05, 2016 | (1379942) | Item 15 | July 20, 2017 | (1441336) |
| Item 8 | November 03, 2016 | (1385890) | Item 16 | August 17, 2017 | (1445013) |

| | | | | | |
|---------|--------------------|-----------|---------|--------------------|-----------|
| Item 17 | September 19, 2017 | (1451596) | Item 31 | April 11, 2019 | (1573309) |
| Item 18 | October 13, 2017 | (1457471) | Item 32 | June 17, 2019 | (1586226) |
| Item 19 | November 07, 2017 | (1462910) | Item 33 | August 06, 2019 | (1600956) |
| Item 20 | December 05, 2017 | (1469342) | Item 34 | September 12, 2019 | (1607873) |
| Item 21 | February 08, 2018 | (1488213) | Item 35 | October 15, 2019 | (1614738) |
| Item 22 | April 19, 2018 | (1495171) | Item 36 | December 05, 2019 | (1627877) |
| Item 23 | May 10, 2018 | (1502092) | Item 37 | January 15, 2020 | (1635504) |
| Item 24 | June 05, 2018 | (1509214) | Item 38 | March 09, 2020 | (1648633) |
| Item 25 | July 11, 2018 | (1515519) | Item 39 | May 15, 2020 | (1661547) |
| Item 26 | August 14, 2018 | (1521570) | Item 40 | June 11, 2020 | (1668081) |
| Item 27 | September 05, 2018 | (1528759) | Item 41 | July 15, 2020 | (1675028) |
| Item 28 | November 15, 2018 | (1542937) | Item 42 | July 31, 2020 | (1664482) |
| Item 29 | December 10, 2018 | (1546678) | Item 43 | August 13, 2020 | (1681796) |
| Item 30 | February 06, 2019 | (1564141) | Item 44 | September 15, 2020 | (1688374) |

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: 01/31/2020 (1642121)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 2 Date: 03/31/2020 (1654988)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

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
COVIA HOLDINGS
CORPORATION
RN100219120**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2020-1476-IWD-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 Covia Holdings Corporation (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a ball clay mine located approximately one mile southwest of the intersection of Farm-to-Market Road 856 and Farm-to-Market Road 13, in Cherokee County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. 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 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 \$9,563 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,651 of the penalty and \$1,912 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, 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 by April 30, 2020, the Respondent conducted an internal audit, held employee training to ensure adherence to standard operating procedures and achieved compliance with the permitted effluent limitations.

II. ALLEGATIONS

During a record review conducted on July 28, 2020, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002973000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 002, 005, 006, and 206, as shown in the effluent violation table below.

| Monitoring Period | Outfall No. 002 | | Outfall No. 005 | | Outfall No. 006 | | Outfall No. 206 | |
|-------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------------------|--------------------|
| | TSS | | TSS | | TSS | | Total Aluminum | |
| | Daily Avg. Conc. | Daily Max. Conc. | Daily Avg. Conc. | Daily Max. Conc. | Daily Avg. Conc. | Daily Max. Conc. | Daily Avg. Conc. | Daily Max. Conc. |
| | Limit = 35 mg/L | Limit = 70 mg/L | Limit = 35 mg/L | Limit = 70 mg/L | Limit = 35 mg/L | Limit = 70 mg/L | Limit = 0.905 mg/L | Limit = 1.914 mg/L |
| June 2019 | 246 | 246 | c | c | c | c | c | c |
| October 2019 | c | c | c | c | 282 | 282 | 4.53 | 4.53 |
| January 2020 | c | c | 75 | 142 | 40 | c | 4.34 | 4.34 |
| March 2020 | 42 | c | c | c | c | c | c | c |

Avg. = average

Conc. = concentration

mg/L = milligrams per liter

c = compliant

Max. = maximum

TSS = total suspended solids

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: Covia Holdings Corporation, Docket No. 2020-1476-IWD-E" to:

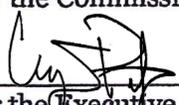
Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

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 Facility operations referenced in this Order.
4. 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.
5. 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.
6. 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.
7. 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 | 08/27/2021 _____ Date |

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

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

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

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

| | |
|--|------------------------------------|
|  _____ Signature | February 15, 2021 _____ Date |
| Douglas S. Losee _____ Name (Printed or typed) Authorized Representative of Covia Holdings Corporation | VP Environmental _____ Title |

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

2829 Technology Forest Blvd.
Suite 100
The Woodlands, Texas 77381

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.