

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60457
TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC
RN110863560
Docket No. 2021-0362-WQ-E

Order Type:
Agreed Order

Media:
WQ

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
3704 Farm-to-Market Road 1010, Cleveland, Liberty County

Type of Operation:
sand and gravel mining operation

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: \$210
Other: None
Interested Third-Parties: None

Texas Register Publication Date: April 7, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,751

Total Paid to General Revenue: \$4,376

Total Due to General Revenue: \$4,375

Compliance History Classifications:
Person/CN – High
Site/RN – High

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014 (PCW 1) and January 28, 2021 (PCW 2)

Investigation Information

Complaint Date(s): October 3, 2020; October 5, 2020; October 26, 2020

Complaint Information: October 3, 2023 (343661) Complainant alleges dark tan water is flowing through a river; October 5, 2020 (343658) Complainant alleges unauthorized discharge; October 26, 2020 (344980) Complainant alleges unauthorized discharge.

Date(s) of Investigation: October 4, 2020 through October 23, 2020; May 5, 2021

Date(s) of NOV(s): N/A

Date(s) of NOE(s): February 3, 2021 (PCW 1); July 13, 2021 (PCW 2)

Violation Information

1. Failed to, as of investigation date October 4, 2020 through October 23, 2020, install and maintain best management practices at the Facility, which resulted in a discharge of pollutants into or adjacent to water in the state [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Multi-Sector General Permit (“MSGP”) No. TXR05EL66, Part V, Section J, No. 5(b)].
2. Failed to, as of investigation date May 5, 2021:
 - a. Install and maintain best management practices at the Facility, which resulted in a discharge of pollutants into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES MSGP No. TXR05EL66, Part V, Section J, No. 5(b)]; and
 - b. Report an unauthorized discharge orally to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division within five days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05EL66, Part III, Section E, No. 6(b)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Repaired the berm breach for the southernmost stormwater retention pond and ceased the unauthorized discharge of sediment-laden stormwater by October 23, 2020;
2. Orally notified the TCEQ Houston Regional Office by May 4, 2021, of the unauthorized discharge that began on May 2, 2021; and
3. Repaired the berm breach between the active mining area and the settling pond and ceased the unauthorized discharge of sediment laden stormwater by May 5, 2021.

Technical Requirements:

1. Within 30 days:
 - a. Prepare and submit a noncompliance notification (NCN) for the unauthorized discharge that began on May 2, 2021, to the TCEQ Houston Regional Office and the TCEQ Enforcement Division; and
 - b. Develop and implement procedures and conduct employee training to submit NCNs in a timely manner.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. and 1.b.

Litigation Information

Date Petition(s) Filed: December 19, 2022
Date(s) of Service: December 30, 2022
Settlement Date: March 6, 2023

Contact Information

TCEQ Attorneys: Megan L. Grace, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Harley Hobson, Enforcement Division, (512) 239-1337
TCEQ Regional Contact: Westin Massey, Houston Regional Office, (713) 767-3500
Respondent Contact: Somaiah Kurre, Director, TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC, 1017 Wakefield Drive, Houston, Texas 77018
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	8-Feb-2021	Screening	12-Feb-2021	EPA Due	
	PCW	13-Oct-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 1)
Reg. Ent. Ref. No.	RN110863560
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60457	No. of Violations	1
Docket No.	2021-0362-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harley Hobson
		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	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$375
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Notes	Reduction for High Performer Classification.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$937
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$0	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,438
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,438
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,438
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$2,438
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Screening Date	12-Feb-2021	Docket No.	2021-0362-WQ-E	PCW
Respondent Case ID No.	60457	TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 1)		Policy Revision 4 (April 2014)
Reg. Ent. Reference No.	RN110863560			PCW Revision March 26, 2014
Media	Water Quality			
Enf. Coordinator	Harley Hobson			

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-Feb-2021	Docket No.	2021-0362-WQ-E	PCW
Respondent	TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	60457			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN110863560			
Media	Water Quality			
Enf. Coordinator	Harley Hobson			

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR05EL66, Part V, Section J, No. 5(b)

Violation Description
 Failed to install and maintain best management practices at the Facility which resulted in a discharge of pollutants into or adjacent to water in the state. Specifically, on October 23, 2020, a berm breach occurred in the southernmost stormwater retention pond ("Waste Water Pit"), resulting in the discharge of sediment-laden stormwater into the East Fork of the San Jacinto River. Additionally, the investigator collected and analyzed water samples, revealing elevated levels of total dissolved solids and total suspended solids, as shown in the attached water sample results table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="15.0%"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0.0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="checkbox"/>
weekly	<input type="checkbox"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty

One monthly event is recommended from the date the unauthorized discharge occurred (October 23, 2020) to the date of compliance (October 23, 2020).

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	<input type="checkbox"/>

Notes
 The Respondent achieved compliance by October 23, 2020.

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 TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 1)
Case ID No. 60457
Reg. Ent. Reference No. RN110863560
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)	\$3,000	23-Oct-2020	23-Oct-2020	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the berm breach for the Waste Water Pit and cease the unauthorized discharge of sediment-laden stormwater. Date required is the date the unauthorized discharge occurred. Final date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	19-Jul-2021	Screening	30-Jul-2021	EPA Due	
	PCW	14-Oct-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 2)
Reg. Ent. Ref. No.	RN110863560
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60457	No. of Violations	2
Docket No.	2021-0362-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harley Hobson
		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	\$8,750
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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	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$875
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Notes: Reduction for High Performer Classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,562
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$16
 Estimated Cost of Compliance: \$3,280
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,313
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$6,313
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,313
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DEFERRAL	0.0% 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	\$6,313
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Screening Date	30-Jul-2021	Docket No.	2021-0362-WQ-E	PCW
Respondent Case ID No.	TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 2) 60457			<i>Policy Revision 5 (January 28, 2021)</i>
Reg. Ent. Reference No.	RN110863560			<i>PCW Revision February 11, 2021</i>
Media	Water Quality			
Enf. Coordinator	Harley Hobson			

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 30-Jul-2021	Docket No. 2021-0362-WQ-E	PCW
Respondent TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 2)		<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No. 60457		<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No. RN110863560		
Media Water Quality		
Enf. Coordinator Harley Hobson		

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05EL66, Part V, Section J, No. 5(b)

Violation Description
 Failed to install and maintain best management practices at the Facility which resulted in a discharge of pollutants into or adjacent to water in the state. Specifically, on May 2, 2021, the East Fork of the San Jacinto River flowed into the active mining area, and a berm breach occurred between the active mining area and the settling pond, resulting in the discharge of sediment-laden stormwater.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	X	<input type="text"/>	<input type="text" value="25.0%"/>
	Potential	<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 significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment

Violation Events

Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="4"/>	Number of violation days														
	<table border="1" style="width:100%"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align:center">X</td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	X	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>		
daily	<input type="text"/>																
weekly	<input type="text"/>																
monthly	X																
quarterly	<input type="text"/>																
semiannual	<input type="text"/>																
annual	<input type="text"/>																
single event	<input type="text"/>																

Violation Base Penalty

One monthly event is recommended from the date the unauthorized discharge began (May 2, 2021) to the date of compliance (May 5, 2021).

Good Faith Efforts to Comply Reduction

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

Notes The Respondent achieved compliance by May 5, 2021.

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 TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 2)
Case ID No. 60457
Reg. Ent. Reference No. RN110863560
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)	\$3,000	2-May-2021	5-May-2021	0.01	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to repair the berm breach between the active mining area and the settling pond and cease the unauthorized discharge of sediment-laden stormwater. Date required is the date the unauthorized discharge began. 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

\$3,000

TOTAL

\$1

Screening Date 30-Jul-2021	Docket No. 2021-0362-WQ-E	PCW
Respondent TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 2)	<i>Policy Revision 5 (January 28, 2021)</i>	
Case ID No. 60457	<i>PCW Revision February 11, 2021</i>	
Reg. Ent. Reference No. RN110863560		
Media Water Quality		
Enf. Coordinator Harley Hobson		

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES MSGP No. TXR05EL66, Part III, Section E, No. 6(b)(1)

Violation Description
 Failed to report an unauthorized discharge orally to the Texas Commission on Environment Quality ("TCEQ") Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division within five days of becoming aware of the noncompliance. Specifically, the unauthorized discharge began on May 2, 2021, and the oral and written noncompliance notifications ("NCNs") were not completed in a timely manner.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Release	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0.0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	X	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="10.0%"/>	

Matrix Notes
 100% of the rule requirements were not met.

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"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	X

Violation Base Penalty

One single event is recommended.

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	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 TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC (PCW No. 2)
Case ID No. 60457
Reg. Ent. Reference No. RN110863560
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	3-May-2021	29-Jun-2022	1.16	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (1)	\$5	3-May-2021	4-May-2021	0.00	\$0	n/a	\$0
Other (2)	\$25	7-May-2021	29-Jun-2022	1.15	\$1	n/a	\$1

Notes for DELAYED costs

Training/Sampling delayed cost is the estimated amount to develop and implement procedures and conduct employee training to submit NCNs in a timely manner. Date required is the date the oral notification was due. Final date is the anticipated date of compliance.

Other delayed cost (1) is the estimated amount to orally notify the TCEQ Houston Regional Office of the unauthorized discharge. Date required is the date the oral notification was due. Final date is the date the TCEQ Regional Office was notified orally.

Other delayed cost (2) is the estimated amount to prepare and submit an NCN for the unauthorized discharge. Date required is the date the written notification was due. Final date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$280

TOTAL

\$15

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 CN605706118, RN110863560, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605706118, TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC **Classification:** HIGH **Rating:** 0.00
Regulated Entity: RN110863560, CLEVELAND PLANT 2 **Classification:** HIGH **Rating:** 0.00
Complexity Points: 6 **Repeat Violator:** NO
CH Group: 04 - Mining
Location: 3704 Farm-to-Market Road 1010 in Cleveland, Liberty County, Texas
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

STORMWATER PERMIT TXR05EL66

AGGREGATE PRODUCTION OPERATION REGISTRATION AP0003116

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: March 21, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 21, 2017 to March 21, 2022

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

Name: Caleb Olson

Phone: (817) 588-5856

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? 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.):

Item 1 October 22, 2019 (1602645)

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
TEXAS CONCRETE SAND AND GRAVEL
ENTERPRISE INC;
RN110863560

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-0362-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent operates a sand and gravel mining operation located at 3704 Farm-to-Market Road 1010 in Cleveland, Liberty County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of eight thousand seven hundred fifty-one dollars (\$8,751.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid four thousand three hundred seventy-six dollars (\$4,376.00) of the penalty. The remaining amount of four thousand three hundred seventy-five dollars (\$4,375.00) shall be paid in one (1) monthly payment of four thousand three hundred seventy-five dollars (\$4,375.00). The remaining payment shall be paid within 30 days after the effective date of this Order. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Order.

7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Repaired the berm breach for the southernmost stormwater retention pond (“Waste Water Pit”) and ceased the unauthorized discharge of sediment-laden stormwater by October 23, 2020;
 - b. Orally notified the TCEQ Houston Regional Office by May 4, 2021, of the unauthorized discharge that began on May 2, 2021; and
 - c. Repaired the berm breach between the active mining area and the settling pond and ceased the unauthorized discharge of sediment laden stormwater by May 5, 2021.

II. ALLEGATIONS

1. During an investigation conducted on and around October 4, 2020, through October 23, 2020, an investigator documented that Respondent failed to install and maintain best management practices at the Facility, which resulted in a discharge of pollutants into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Multi-Sector General Permit (“MSGP”) No. TXR05EL66, Part V, Section J, No. 5(b). Specifically, on October 23, 2020, a berm breach occurred in the Waste Water Pit, resulting in the discharge of sediment-laden stormwater into the East Fork of the San Jacinto River. Additionally, the investigator collected and analyzed water samples, revealing elevated levels of total dissolved solids (“TDS”) and total suspended solids (“TSS”), as shown in the water sample results table below:

TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC				
Docket No. 2021-0362-WQ-E				
Case No. 60457				
October 23, 2020 Stormwater Sample Results Table				
Sample ID	Sample Site Location	TSS Conc. (mg/L)	TDS Conc. (mg/L)*	Sample Site Visible Conditions
W013664-01	East Fork of the San Jacinto River upstream of the outfall near State Highway 59	9	97	Water appeared clear and transparent
W013664-02	East Fork of the San Jacinto River downstream of the outfall and approximately 0.25 miles east of County Road 3664	18	284	Water appeared turbid and light tan in color
W013664-03	Outfall conveyance	248	3,500	Water appeared turbid and light tan in color

W013664-04	East Fork of the San Jacinto within the mixing zone of the outfall	1,180	1,032	Water appeared turbid and light tan in color
W013664-05	East Fork of the San Jacinto River slightly upstream of the mixing zone of the outfall	11	102	Water appeared clear and transparent
W013664-06	East Fork of the San Jacinto River approximately ten feet downstream of the mixing zone of the outfall	10	102	Water appeared slightly turbid and had a light tan tinge
W013664-07	Southernmost stormwater retention pond near the repaired berm breach	165	3,216	Water appeared turbid and light tan in color
W013664-08	Dredge pond	297	1,496	Water appeared turbid and light tan in color
W013664-09	East Fork of the San Jacinto River downstream of the outfall near Farm-to-Market Road 2090	23	259	Water appeared turbid and light tan in color

Conc. = concentration

mg/L = milligrams per liter

*30 TEX. ADMIN. CODE § 307.10(1) prescribes a numeric criterion of 400 mg/L for TDS for the receiving stream Segment No. 1003.

2. During an investigation conducted on and around May 5, 2021, an investigator documented that Respondent:
 - a. Failed to install and maintain best management practices at the Facility, which resulted in a discharge of pollutants into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES MSGP No. TXR05EL66, Part V, Section J, No. 5(b). Specifically, on May 2, 2021, the East Fork of the San Jacinto River flowed into the active mining area, and a berm breach occurred between the active mining area and the settling pond, resulting in the discharge of sediment-laden stormwater; and
 - b. Failed to report an unauthorized discharge orally to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division within five days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05EL66, Part III, Section E, No. 6(b)(1). Specifically, the unauthorized discharge began on May 2, 2021, and the oral and written noncompliance notifications (“NCNs”) were not completed in a timely manner.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC, Docket No. 2021-0362-WQ-E" to:

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

2. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order:

- i. Prepare and submit an NCN for the unauthorized discharge that began on May 2, 2021, to the TCEQ Houston Regional Office and the TCEQ Enforcement Division; and
- ii. Develop and implement procedures and conduct employee training to submit NCNs in a timely manner.

- b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

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

and:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/26/23

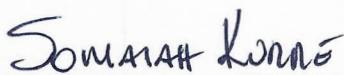
Date

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

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

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

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



Signature - Somaiah Kurre, President
TEXAS CONCRETE SAND AND GRAVEL ENTERPRISE INC
1367 Woodcrest Drive
Houston, Texas 77018-5253

3/06/2023

Date

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