

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Greg Merrell, Assistant General Counsel

Thru: Anna Treadwell, Senior Attorney
AMT Litigation Division

From: *TP* Taylor Pearson, Staff Attorney
Litigation Division

Date: June 21, 2023

Subject: **Backup Revision**
June 28, 2023 Commission Agenda
Item No. 14 - Ambers Construction, LLC
Docket No. 2021-0518-MLM-E

Enclosed please find the following:

Page 2 of the Agreed Order:

Investigation date was corrected from “February 6, 2021” to “February 9, 2021.”

Respondent Contact:

Jeff Akhtar, Director
Ambers Construction, LLC
12410 Keith Road
Beaumont, Texas 77713

A replacement original and redline copy are enclosed. Please do not hesitate to call me at (512) 239-3400 if you have any questions regarding this matter.

cc: Courtney Gooris, Enforcement Division
Erin Gorman, Dallas/Fort Worth Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division

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 Site:
 - a. Collected and properly disposed of the trash and construction debris by February 9, 2021;
 - b. Ceased the unauthorized discharge, removed the tank, and tied into the City of Sour Lake wastewater collection system by February 10, 2021; and
 - c. Ceased burning and removed the burn pile and properly disposed of the wooden construction boards and metal waste by March 25, 2021.

II. ALLEGATIONS

1. During an investigation conducted on February 6, 2021, an investigator documented that Respondent:
 - a. Failed to install and maintain best management practices (“BMPs”) at the Site which resulted in a discharge of pollutants, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), TPDES General Permit No. TXR150000, Part III, F6(a). Specifically, approximately 1.3 cubic yards of trash consisting of cardboard, plastic, and construction debris was found around the Site and the neighboring property;
 - b. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 111.201. Specifically, approximately 3 cubic yards of construction debris consisting of wood construction materials, cans and other metal materials were burned at the northwest side of the Site; and
 - c. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1). Specifically, approximately 747 gallons of sewage wastewater accumulated on a neighboring property after being discharged from a tank.

III. DENIALS

Respondent generally denies each Allegation in Section II.

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EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60644
Ambers Construction, LLC
RN111060562
Docket No. 2021-0518-MLM-E

Order Type:
Agreed Order

Media:
MLM

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
2440 Highway 326 South, Sour Lake, Hardin County

Type of Operation:
operates a construction site

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

Texas Register Publication Date: April 21, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,945

Total Paid to General Revenue: \$305

Total Due to General Revenue: \$10,640
Payment Plan: 35 payments of \$304 each

Compliance History Classifications:
Person/CN - Not Applicable
Site/RN - Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 9, 2021

Date(s) of NOV(s): July 6, 2020

Date(s) of NOE(s): April 6, 2021

Ambers Construction, LLC
RN111060562
Docket No. 2021-0518-MLM-E

Violation Information

1. Failed to install and maintain best management practices (“BMPs”) at the Site which resulted in a discharge of pollutants [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR150000, Part III, F6(a)].
2. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 111.201].
3. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Collected and properly disposed of the trash and construction debris by February 9, 2021;
2. Ceased the unauthorized discharge, removed the tank, and tied into the City of Sour Lake wastewater collection system by February 10, 2021; and
3. Ceased burning and removed the burn pile and properly disposed of the wooden construction boards and metal waste by March 25, 2021.

Technical Requirements:

1. Within 30 days:
 - a. Install and maintain BMPs to prevent the discharge of pollutants; and
 - b. Cleanup and properly remediate the sewage discharge on the neighboring property. If Respondent does not own or operate the off-site conveyance, then Respondent shall work with the owner or operator of the property to remove the sewage; and
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:	February 9, 2022
Date(s) of Service:	unclaimed
Date Answer(s) Filed:	February 28, 2022
SOAH Referral Date:	April 29, 2022
Hearing Date(s):	
Preliminary hearing:	June 9, 2022
Evidentiary hearing:	April 25, 2023 (scheduled)
Settlement Date:	March 20, 2023

Contact Information

TCEQ Attorneys: Taylor Pearson, 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: Ronald Hebert, Beaumont Regional Office, (409) 898-3838

Respondent Contact: Jeff Akhtar, Director, Ambers Construction, LLC, 12410 Keith Road, Beaumont, Texas 77713

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	12-Apr-2021	Screening	16-Apr-2021	EPA Due	
	PCW	12-Apr-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ambers Construction, LLC
Reg. Ent. Ref. No.	RN111060562
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60644	No. of Violations	3
Docket No.	2021-0518-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	Harley Hobson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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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	5.0% Adjustment	Subtotals 2, 3, & 7	\$562
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Notes: Enhancement for one NOV with same/similar violations.

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	-\$937
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$212
 Estimated Cost of Compliance: \$3,269
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.6% Adjustment	\$70
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.

Final Penalty Amount	\$10,945
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,945
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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	\$10,945
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Screening Date 16-Apr-2021

Docket No. 2021-0518-MLM-E

PCW

Respondent Ambers Construction, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 60644

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111060562

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 16-Apr-2021
Respondent Ambers Construction, LLC
Case ID No. 60644
Reg. Ent. Reference No. RN111060562
Media Water Quality
Enf. Coordinator Harley Hobson

Docket No. 2021-0518-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000, Part III, F6(a)

Violation Description Failed to install and maintain best management practices ("BMPs") at the Site which resulted in a discharge of pollutants. Specifically, approximately 1.3 cubic yards of trash consisting of cardboard, plastic, and construction debris was found around the Site and the neighboring property.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to 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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1 66 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the investigation date (February 9, 2021) to the screening date (April 16, 2021).

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$84

Violation Final Penalty Total \$3,963

This violation Final Assessed Penalty (adjusted for limits) \$3,963

Economic Benefit Worksheet

Respondent Ambers Construction, LLC
Case ID No. 60644
Reg. Ent. Reference No. RN111060562
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	\$300	9-Feb-2021	9-Feb-2021	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	9-Feb-2021	23-Mar-2022	1.12	\$84	n/a	\$84

Notes for DELAYED costs

Estimated Remediation/Disposal cost to collect and properly dispose of the trash and construction debris. The Date Required is the investigation date and the Final Date is the date of compliance.

Estimated Other cost to install and maintain BMPs to prevent the discharge of pollutants. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,800

TOTAL \$84

Screening Date 16-Apr-2021 **Docket No.** 2021-0518-MLM-E **PCW**
Respondent Ambers Construction, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 60644 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111060562
Media Water Quality
Enf. Coordinator Harley Hobson

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)
Violation Description Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 3 cubic yards of construction debris consisting of wood construction materials, cans and other metal materials were burned at the northwest side of the Site.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	<input type="text"/>	<input type="text"/>	
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 insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes The Respondent returned to compliance by March 25, 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 Ambers Construction, LLC
Case ID No. 60644
Reg. Ent. Reference No. RN111060562
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$300	9-Feb-2021	25-Mar-2021	0.12	\$2	n/a	\$2
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Remediation/Disposal cost to cease burning and remove the burn pile and properly dispose of the wooden construction boards and metal waste. The Date Required is the investigation 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)	\$69	8-Feb-2021	16-Apr-2021	0.18	\$1	\$69	\$70

Notes for AVOIDED costs

Estimated avoided cost to dispose of the approximately 3 cubic yards of wooden construction boards and metal waste at an authorized facility rather than burning. The Date Required is one day prior to the investigation and the Final Date is the screening date.

Approx. Cost of Compliance

\$369

TOTAL

\$72

Screening Date 16-Apr-2021 **Docket No.** 2021-0518-MLM-E **PCW**
Respondent Ambers Construction, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 60644 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111060562
Media Water Quality
Enf. Coordinator Harley Hobson

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, approximately 747 gallons of sewage wastewater accumulated on a neighboring property after being discharged from a tank.

Base Penalty \$25,000

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 66 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the investigation date (February 9, 2021) to the screening date (April 16, 2021).

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

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

Violation Subtotal \$3,750

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

Estimated EB Amount \$56 **Violation Final Penalty Total** \$3,963

This violation Final Assessed Penalty (adjusted for limits) \$3,963

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 CN605790203, RN111060562, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605790203, Ambers Construction, LLC **Classification:** NOT APPLICABLE **Rating:** N/A
Regulated Entity: RN111060562, GATES OF SOUR LAKE APARTMENTS **Classification:** NOT APPLICABLE **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: 2440 Highway 326 South in Sour Lake, Hardin County, Texas
TCEQ Region: REGION 10 - BEAUMONT
ID Number(s):

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

Date Compliance History Report Prepared: April 12, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 12, 2016 to April 12, 2021

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

Name: Harley Hobson

Phone: (512) 239-1337

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

- 1 Date: 07/06/2020 (1658490)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure by Ambers Construction LLC to obtain Stormwater Construction General Permit TXR150000 coverage for the 4.95 acre property being utilized to build the Gates of Sour Lake Apartments, at 2430 Highway 326, Sour Lake, Texas.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter B 111.201
Description: Failure by Ambers Construction LLC to only burn allowable items such as trees and brush resulting from on-site land clearing operations at the Gates of Sour Lake Apartments, at 2430 Highway 326, Sour Lake, Texas.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2)
Description: Failure by Ambers Construction LLC to prevent the unauthorized discharge of pollutants such as sand to be discharged off-site into or adjacent to waters of the state.

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 4/12/2016 and 4/12/2021

1*	Date:	07/06/2020	(1658490)	Classification:	Moderate
	Self Report?	NO		For Informational Purposes Only	
	Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)			
	Description:	Failure by Ambers Construction LLC to obtain Stormwater Construction General Permit TXR150000 coverage for the 4.95 acre property being utilized to build the Gates of Sour Lake Apartments, at 2430 Highway 326, Sour Lake, Texas.			
				Classification:	Moderate
	Self Report?	NO		For Informational Purposes Only	
	Citation:	30 TAC Chapter 111, SubChapter B 111.201			
	Description:	Failure by Ambers Construction LLC to only burn allowable items such as trees and brush resulting from on-site land clearing operations at the Gates of Sour Lake Apartments, at 2430 Highway 326, Sour Lake, Texas.			
				Classification:	Moderate
	Self Report?	NO		For Informational Purposes Only	
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(2)			
	Description:	Failure by Ambers Construction LLC to prevent the unauthorized discharge of pollutants such as sand to be discharged off-site into or adjacent to waters of the state.			

* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

Appendix B

All Investigations Conducted During Component Period April 12, 2016 and April 12, 2021

		(1658490)	For Informational Purposes Only
Item 1	July 07, 2020**		
		(1680125)	For Informational Purposes Only
Item 2	October 29, 2020		

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
AMBERS CONSTRUCTION, LLC;
RN111060562

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-0518-MLM-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 Ambers Construction, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent operates a construction site located at 2440 Highway 326 South in Sour Lake, Hardin County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5). The Site consists or consisted of one or more sources as defined TEX. HEALTH & SAFETY CODE § 382.003(12).
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, TEX. HEALTH & SAFETY CODE ch. 382, 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 ten thousand nine hundred forty-five dollars (\$10,945.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred five dollars (\$305.00) of the penalty. The remaining amount of ten thousand six hundred forty dollars (\$10,640.00) shall be paid in thirty-five (35) monthly payments of three hundred four dollars (\$304.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any

notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings if the Executive Director determines 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 Site:
 - a. Collected and properly disposed of the trash and construction debris by February 9, 2021;
 - b. Ceased the unauthorized discharge, removed the tank, and tied into the City of Sour Lake wastewater collection system by February 10, 2021; and
 - c. Ceased burning and removed the burn pile and properly disposed of the wooden construction boards and metal waste by March 25, 2021.

II. ALLEGATIONS

1. During an investigation conducted on February 6, 2021, an investigator documented that Respondent:
 - a. Failed to install and maintain best management practices (“BMPs”) at the Site which resulted in a discharge of pollutants, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), TPDES General Permit No. TXR150000, Part III, F6(a). Specifically, approximately 1.3 cubic yards of trash consisting of cardboard, plastic, and construction debris was found around the Site and the neighboring property;
 - b. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 111.201. Specifically, approximately 3 cubic yards of construction debris consisting of wood construction materials, cans and other metal materials were burned at the northwest side of the Site; and
 - c. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1). Specifically, approximately 747 gallons of sewage wastewater accumulated on a neighboring property after being discharged from a tank.

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: Ambers Construction, LLC, Docket No. 2021-0518-MLM-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. Install and maintain BMPs to prevent the discharge of pollutants; and
 - ii. Cleanup and properly remediate the sewage discharge on the neighboring property. If Respondent does not own or operate the off-site conveyance, then Respondent shall work with the owner or operator of the property to remove the sewage; and
- 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the 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 - Jeff Akhtar, Manager and Director
Ambers Construction, LLC
12410 Keith Road
Beaumont, Texas 77713

3/20/2023
Date

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