

Executive Summary – Enforcement Matter – Case No. 60657

Dean Haws

RN111225371

Docket No. 2021-0530-MLM-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Unauthorized diversion, taking, or storage of state water.

Media:

MLM - WQ, WR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Barnwell Mountain Cabins, located 1.25 miles north of the intersection of State Highway 155 and Bluebell Road, Gilmer, Upshur County

Type of Operation:

Construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 15, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,000

Total Paid to General Revenue: \$190

Total Due to General Revenue: \$5,810

Payment Plan: 35 payments of \$166 each

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): February 5, 2021

Complaint Information: Alleged a construction site was operating without erosion controls and proper permit authorization.

Date(s) of Investigation: February 22, 2021 through February 23, 2021

Date(s) of NOE(s): April 15, 2021

Executive Summary – Enforcement Matter – Case No. 60657

Dean Haws

RN111225371

Docket No. 2021-0530-MLM-E

Violation Information

1. Failed to obtain authorization to discharge stormwater associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121, and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
2. Failed to obtain authorization prior to diverting, impounding, storing, taking, or using state water [30 TEX. ADMIN. CODE § 297.11 and TEX. WATER CODE § 11.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By September 8, 2021, the Respondent completed all construction activity, and the disturbed areas at the Site reached final stabilization.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease diverting, impounding, storing, taking, or using state water until authorization has been obtained;
- b. Within 15 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alyssa Loveday, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-5504; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Dean Haws, Owner, 318 U.S. Highway 271 North, Gilmer, Texas 75644

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	19-Apr-2021	Screening	22-Apr-2021	EPA Due	
	PCW	22-Apr-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Dean Haws
Reg. Ent. Ref. No.	RN111225371
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60657	No. of Violations	1
Docket No.	2021-0530-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Water Rights	Enf. Coordinator	Alyssa Loveday
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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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	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$271
 Estimated Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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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	\$5,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,000
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Screening Date 22-Apr-2021

Docket No. 2021-0530-MLM-E

PCW

Respondent Dean Haws

Policy Revision 5 (January 28, 2021)

Case ID No. 60657

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111225371

Media Water Quality

Enf. Coordinator Alyssa Loveday

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)

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

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 22-Apr-2021	Docket No. 2021-0530-MLM-E	PCW
Respondent Dean Haws		<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No. 60657		<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No. RN111225371		
Media Water Quality		
Enf. Coordinator Alyssa Loveday		

Violation Number

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

Violation Description Failed to obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR150000.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	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"/>	
Matrix Notes	100% of the rule requirements were not met.				Percent <input type="text" value="10.0%"/>

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Two monthly events are recommended from the February 22, 2021 investigation date to the April 22, 2021 screening date.

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 Dean Haws
Case ID No. 60657
Reg. Ent. Reference No. RN111225371
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)	\$10,000	22-Feb-2021	8-Sep-2021	0.54	\$271	n/a	\$271

Notes for DELAYED costs

Estimated Other cost to complete all construction activity and achieve final stabilization at the Site. The date required is the investigation start date, and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$271



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	19-Apr-2021	Screening	22-Apr-2021	EPA Due	
	PCW	22-Apr-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Dean Haws
Reg. Ent. Ref. No.	RN111225371
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60657	No. of Violations	1
Docket No.	2021-0530-MLM-E	Order Type	Findings
Media Program(s)	Water Rights	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Alyssa Loveday
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$533
 Estimated Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,000
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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	\$1,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$1,000
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Screening Date 22-Apr-2021

Docket No. 2021-0530-MLM-E

PCW

Respondent Dean Haws

Policy Revision 5 (January 28, 2021)

Case ID No. 60657

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111225371

Media Water Rights

Enf. Coordinator Alyssa Loveday

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)**

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

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date	22-Apr-2021	Docket No.	2021-0530-MLM-E	PCW
Respondent	Dean Haws			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60657			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111225371			
Media	Water Rights			
Enf. Coordinator	Alyssa Loveday			

Violation Number

Rule Cite(s)

Violation Description

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

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="text" value="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 checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

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 Dean Haws
Case ID No. 60657
Reg. Ent. Reference No. RN111225371
Media Water Rights
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	22-Feb-2021	18-Mar-2022	1.07	\$533	n/a	\$533
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Permit Costs for engineering/consulting fees, to submit a Water Rights permit application, and to obtain authorization to divert, impound, store, take, or use state water. 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

\$10,000

TOTAL

\$533

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 CN605870609, RN111225371, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605870609, Dean Haws **Classification:** NOT APPLICABLE **Rating:** N/A
Regulated Entity: RN111225371, BARNWELL MOUNTAIN CABINS **Classification:** NOT APPLICABLE **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 04 - Mining
Location: 1.25 miles north of the intersection of State Highway 155 and Bluebell Road in Gilmer, Upshur County, Texas
TCEQ Region: REGION 05 - TYLER

ID Number(s):
WATER QUALITY NON-PERMITTED ID NUMBER
R5111225371

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

Date Compliance History Report Prepared: June 16, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 16, 2016 to June 16, 2021

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

Name: Alyssa Loveday

Phone: (512) 239-5504

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.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 6/16/2016 and 6/16/2021

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period June 16, 2016 and June 16, 2021

N/A

For Informational Purposes Only

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DEAN HAWS
RN111225371**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2021-0530-MLM-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Dean Haws (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 11, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a construction site located 1.25 miles north of the intersection of State Highway 155 and Bluebell Road in Gilmer, Upshur 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 adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(52).
2. During an investigation conducted on February 22, 2021 through February 23, 2021, an investigator documented that:
 - a. The Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR150000.
 - b. The Respondent built a dam that would impound water flow of approximately 4 surface acres.

3. The Executive Director recognizes that by September 8, 2021, the Respondent completed all construction activity, and the disturbed areas at the Site reached final stabilization.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 11 and 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to obtain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121, and 40 CODE OF FEDERAL REGULATIONS § 122.26(c).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to obtain authorization prior to diverting, impounding, storing, taking, or using state water, in violation of 30 TEX. ADMIN. CODE § 297.11 and TEX. WATER CODE § 11.121.
4. Pursuant to TEX. WATER CODE § 7.051 and TEX. WATER CODE § 11.0842(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of \$6,000 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053 and TEX. WATER CODE § 11.0842(c). The Respondent paid \$190 of the penalty. The remaining amount of \$5,810 shall be paid in 35 monthly payments of \$166 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be

constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Dean Haws, Docket No. 2021-0530-MLM-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. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease diverting, impounding, storing, taking, or using state water until authorization has been obtained.
 - b. Within 15 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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 the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. 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 in this Order.
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. 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.
10. 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.

11. 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



6/8/2022

For the Executive Director

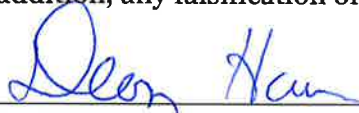
Date

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.



5-11-22

Signature

Date

Dean Haws

Partner

Name (Printed or typed)

Title

Authorized Representative of

Dean Haws

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