

Executive Summary – Enforcement Matter – Case No. 60849
Cypress Cove, LLC
RN109924621
Docket No. 2021-0723-WQ-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Cypress Land & Homes CR 431 Subdivision, located on County Road 431 near Tyler, Smith 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: December 17, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,438

Total Paid to General Revenue: \$2,438

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): March 4, 2021 and March 26, 2021

Complaint Information: Alleged a construction site was discharging sediment onto adjacent properties and a privately owned pond. A second complainant contacted the Regional Office on March 26, 2021 regarding large stormwater volumes discharging from the site onto adjacent properties.

Date(s) of Investigation: September 15 through September 28, 2020

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Cypress Cove, LLC
RN109924621
Docket No. 2021-0723-WQ-E

Date(s) of NOE(s): May 28, 2021

Violation Information

1. Failed to install and maintain best management practices ("BMPs") at the Site which resulted in an unauthorized discharge of pollutants [TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXR15277M, Part III, Section G.1].
2. Failed to maintain a complete Stormwater Pollution Prevention Plan ("SWP3") [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. TXR15277M, Part III, Section F].
3. Failed to post and maintain the TCEQ site notice near the main entrance of the construction site [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. TXR15277M, Part III, Section D.2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent posted a TCEQ site notice near the main entrance of the Site by March 26, 2021.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Install and maintain BMPs to prevent the unauthorized discharge of sediment in accordance with the requirements of TPDES General Permit No. TXR15277M;

ii. Begin maintaining a complete SWP3; and

iii. Remove and dispose of accumulated sediment from the Site's eastern and northern boundaries, off-site pond, and adjacent properties.

b. Within 45 days, submit written certification to demonstrate compliance with a.

Executive Summary – Enforcement Matter – Case No. 60849
Cypress Cove, LLC
RN109924621
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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: Nathan Bass, Member, Cypress Cove, LLC, 18200 County Road 4108,
Lindale, Texas 75771-6106

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	2-Jun-2021	Screening	3-Jun-2021	EPA Due	
	PCW	4-Jun-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Cypress Cove, LLC
Reg. Ent. Ref. No.	RN109924621
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60849	No. of Violations	3
Docket No.	2021-0723-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		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	\$2,750
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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	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	-\$312
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$656
Estimated Cost of Compliance	\$6,600

*Capped at the Total EB \$ Amount

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:

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: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,438
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Screening Date 3-Jun-2021

Docket No. 2021-0723-WQ-E

PCW

Respondent Cypress Cove, LLC

Policy Revision 4 (April 2014)

Case ID No. 60849

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN109924621

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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

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 3-Jun-2021 **Docket No.** 2021-0723-WQ-E **PCW**
Respondent Cypress Cove, LLC *Policy Revision 4 (April 2014)*
Case ID No. 60849 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN109924621
Media Water Quality
Enf. Coordinator Alyssa Loveday

Violation Number 1
Rule Cite(s) Tex. Water Code § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXR15277M, Part III, Section G.1
Violation Description Failed to install and maintain best management practices ("BMPs") at the Site which resulted in an unauthorized discharge of pollutants. Specifically, several areas had been denuded along a steep hill on the Site's eastern and northern boundaries, leading to a discharge of sediment into a privately owned, off-site pond and onto adjacent properties.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			x	Percent 5.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 69 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 26, 2021 investigation date to the June 3, 2021 screening date.

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 \$1,250

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

Estimated EB Amount \$615 **Violation Final Penalty Total** \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Cypress Cove, LLC
Case ID No. 60849
Reg. Ent. Reference No. RN109924621
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	\$5,000	15-Sep-2020	30-Mar-2022	1.54	\$26	\$512	\$538
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	\$1,000	15-Sep-2020	30-Mar-2022	1.54	\$77	n/a	\$77
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Engineering/Construction cost to install and maintain effective erosion and sediment controls. The Date Required is the investigation date initially documenting the violation, and the Final Date is the estimated date of compliance.

Estimated Remediation/Disposal cost to remove and dispose of accumulated sediment from the Site's eastern and northern boundaries, off-site pond, and adjacent properties. The Date Required is the investigation date initially documenting the violation, 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 \$6,000

TOTAL \$615

Screening Date 3-Jun-2021
Respondent Cypress Cove, LLC
Case ID No. 60849
Reg. Ent. Reference No. RN109924621
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2021-0723-WQ-E

PCW

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

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. TXR15277M, Part III, Section F

Violation Description Failed to maintain a complete Stormwater Pollution Prevention Plan ("SWP3"). Specifically, the SWP3 did not include a description of the intended schedule or sequence of activities that will disturb soils for major portions of the Site, data describing the soil or quality of any discharge from the Site, or a sufficient site map.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				X	1.0%

Matrix Notes Less than 30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 69 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

One single event is recommended.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent Cypress Cove, LLC
Case ID No. 60849
Reg. Ent. Reference No. RN109924621
Media Violation No. Water Quality
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	15-Sep-2020	30-Mar-2022	1.54	\$38	n/a	\$38
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated Record Keeping cost to maintain a complete SWP3. The Date Required is the investigation date initially documenting the violation, 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	\$500	TOTAL	\$38
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Screening Date 3-Jun-2021
Respondent Cypress Cove, LLC
Case ID No. 60849
Reg. Ent. Reference No. RN109924621
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2021-0723-WQ-E

PCW

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

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. TXR15277M, Part III, Section D.2

Violation Description Failed to post and maintain the TCEQ site notice near the main entrance of the construction site. Specifically, the contents of the posted site notice had been weathered and was no longer legible.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%
Matrix Notes	100% of the rule requirements were not met.				

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Notes: The Respondent achieved compliance by March 26, 2021, prior to the Notice of Enforcement on May 28, 2021.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$938

This violation Final Assessed Penalty (adjusted for limits) \$938

Economic Benefit Worksheet

Respondent Cypress Cove, LLC
Case ID No. 60849
Reg. Ent. Reference No. RN109924621
Media Violation No. Water Quality
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	15-Sep-2020	26-Mar-2021	0.53	\$3	n/a	\$3

Notes for DELAYED costs

Actual cost to post the TCEQ site notice near the main entrance. The Date Required is the investigation date initially documenting the violation, 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 \$100

TOTAL \$3

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 CN605524016, RN109924621, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605524016, Cypress Cove, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN109924621, CYPRESS LAND & HOMES CR 431 SUBDIVISION **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 09 - Construction

Location: Country Road 431 near Tyler, Smith County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s):
WATER QUALITY NON PERMITTED ID NUMBER R05109924621 **STORMWATER PERMIT** TXR15277M

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

Date Compliance History Report Prepared: June 01, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 01, 2016 to June 01, 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CYPRESS COVE, LLC
RN109924621**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0723-WQ-E**

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

The Respondent understands that it 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 on County Road 431 near Tyler, Smith County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted from September 15 through September 28, 2020, an investigator documented that:
 - a. Several areas had been denuded along a steep hill on the Site's eastern and northern boundaries, leading to a discharge of sediment into a privately owned, off-site pond and onto adjacent properties.
 - b. The Stormwater Pollution Prevention Plan ("SWP3") did not include a description of the intended schedule or sequence of activities, that will disturb soils for major portions of the Site, data describing the soil or quality of any discharge from the Site, or a sufficient site map.

- c. The contents of the posted site notice had been weathered and was no longer legible.

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 ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to install and maintain best management practices ("BMPs") at the Site which resulted in an unauthorized discharge of pollutants, in violation of TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXR15277M, Part III, Section G.1.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to maintain a complete SWP3, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. TXR15277M, Part III, Section F.
4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to post and maintain the TCEQ site notice near the main entrance of the construction site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. TXR15277M, Part III, Section D.2.
5. Pursuant to TEX. WATER CODE § 7.051, 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.
6. An administrative penalty in the amount of \$2,438 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$2,438 penalty.
7. The Executive Director recognizes that the Respondent has implemented a corrective measure at the Site by posting a TCEQ site notice near the main entrance of the Site by March 26, 2021.

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. 6 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: Cypress Cove, LLC, Docket No. 2021-0723-WQ-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Install and maintain BMPs at the Site to prevent the unauthorized discharge of sediment, in accordance with the requirements of TPDES General Permit No. TXR15277M;
 - ii. Begin maintaining a complete SWP3; and
 - iii. Remove and dispose of accumulated sediment from the Site's eastern and northern boundaries, off-site pond, and adjacent properties.
 - b. Within 45 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



For the Executive Director

6/8/2022

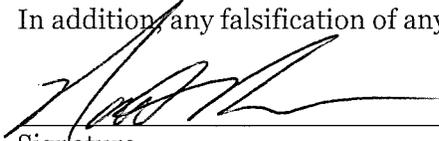
Date

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

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

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

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



Signature

4-14-22

Date

Nathan Bass

Name (Printed or typed)
Authorized Representative of
Cypress Cove, LLC

Member

Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.