

Executive Summary – Enforcement Matter – Case No. 61001
ARGOS USA LLC
RN107866931
Docket No. 2021-0877-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Dallas Plant, 2935 Commerce Street, Dallas, Dallas County

Type of Operation:

Concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 15, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,350

Amount Deferred for Expedited Settlement: \$2,070

Total Paid to General Revenue: \$8,280

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 26, 2021

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

Executive Summary – Enforcement Matter – Case No. 61001
ARGOS USA LLC
RN107866931
Docket No. 2021-0877-WQ-E

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System General Permit No. TXG112346, Part III, Section A.1, Outfall Nos. 001 and 0002].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By May 31, 2021, cleaned the channels and detention ponds of excess sediment, increased the frequency of water pit cleanings and inspections of drainage and treatment systems, and added hay bales and filter socks to provide additional treatment of process water discharge;
- b. By June 15, 2021, ceased operations and sold the Plant; and
- c. By June 30, 2021, achieved compliance with the permitted effluent limitations.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Laura Draper, Enforcement Division, R-9, (254) 761-3012; Michael Parrish, Enforcement Division, MC-219, (512) 239-2548

Respondent: Chip Hussey, Vice President, ARGOS USA LLC, 3015 Windward Plaza, Suite 300, Alpharetta, Georgia 30005

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Jul-2021	Screening	6-Jul-2021	EPA Due	
	PCW	7-Jul-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	ARGOS USA LLC
Reg. Ent. Ref. No.	RN107866931
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	61001	No. of Violations	2	
Docket No.	2021-0877-WQ-E	Order Type	1660	
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	\$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	2.0% Adjustment	Subtotals 2, 3, & 7	\$225
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Notes: Enhancement for three months of self-reported effluent violations. Reduction for High Performer Classification, one notice of intent to conduct an audit, and one disclosure of 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	-\$1,125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$830
 Estimated Cost of Compliance: \$20,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,350
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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	\$10,350
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,350
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,070
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,280
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Screening Date 6-Jul-2021
Respondent ARGOS USA LLC
Case ID No. 61001
Reg. Ent. Reference No. RN107866931
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2021-0877-WQ-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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>)	3	15%
	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>)	1	-1%
	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>)	1	-2%
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) 12%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for three months of self-reported effluent violations. Reduction for High Performer Classification, one notice of intent to conduct an audit, and one disclosure of violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 2%

Screening Date 6-Jul-2021
Respondent ARGOS USA LLC
Case ID No. 61001
Reg. Ent. Reference No. RN107866931
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2021-0877-WQ-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)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG112346, Part III, Section A.1, Outfall No. 001

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

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent 15.0%	
	Release	Major	Moderate		Minor
	Actual				x
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 2 90 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of August 2020 and February and March 2021.

Good Faith Efforts to Comply

10.0%

Reduction \$750

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

Notes The Respondent achieved compliance on June 30, 2021, after to the Notice of Enforcement dated June 28, 2021.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$830

Violation Final Penalty Total \$6,900

This violation Final Assessed Penalty (adjusted for limits) \$6,900

Economic Benefit Worksheet

Respondent ARGOS USA LLC
Case ID No. 61001
Reg. Ent. Reference No. RN107866931
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)	\$20,000	31-Aug-2020	30-Jun-2021	0.83	\$830	n/a	\$830

Notes for DELAYED costs

Actual cost to clean the channels and detention ponds of excess sediment, increase water pit cleanings and inspections of drainage and treatment systems, add hay bales and filter socks to provide additional treatment of process water discharge, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$20,000

TOTAL \$830

Screening Date 6-Jul-2021 **Docket No.** 2021-0877-WQ-E **PCW**
Respondent ARGOS USA LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 61001 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN107866931
Media Water Quality
Enf. Coordinator Alyssa Loveday

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES General Permit No. TXG112346, Part III, Section A.1, Outfall No. 0002
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
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 31 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the quarter containing the month of August 2020.

Good Faith Efforts to Comply 10.0% Reduction \$375

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

Notes The Respondent achieved compliance on June 30, 2021, after to the Notice of Enforcement dated June 28, 2021.

Violation Subtotal \$3,375

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$3,450

This violation Final Assessed Penalty (adjusted for limits) \$3,450

Economic Benefit Worksheet

Respondent ARGOS USA LLC
Case ID No. 61001
Reg. Ent. Reference No. RN107866931
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				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

See Economic Benefit Worksheet for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

ARGOS USA LLC
 TPDES Permit No. TXG112346
 Docket No. 2021-0877-WQ-E
 Case No. 61001

Effluent Violation Table		
Monitoring Period	Outfall No. 001	Outfall No. 0002
	Total Suspended Solids	Total Suspended Solids
	Daily Maximum Concentration Limit = 65 mg/L	Daily Maximum Concentration Limit = 65 mg/L
August 2020	109	100
February 2021	164	c
March 2021	107	c

c = compliant

mg/L = milligrams per liter

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Compliance History Report

Compliance History Report for CN605186832, RN107866931, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605186832, ARGOS USA LLC **Classification:** HIGH **Rating:** 0.06

Regulated Entity: RN107866931, DALLAS PLANT **Classification:** SATISFACTORY **Rating:** 1.71

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 2935 Commerce Street in Dallas, Dallas County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 126203

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 89524

WASTEWATER PERMIT TXG112859

AIR EMISSIONS INVENTORY ACCOUNT NUMBER DBA029C

POLLUTION PREVENTION PLANNING ID NUMBER P10343

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

Date Compliance History Report Prepared: January 13, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 13, 2017 to January 13, 2022

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.):

Item 1	August 28, 2018	(1512286)	Item 10	May 17, 2019	(1589424)
Item 2	September 17, 2018	(1530366)	Item 11	June 17, 2019	(1589425)
Item 3	October 16, 2018	(1536580)	Item 12	July 15, 2019	(1596291)
Item 4	December 03, 2018	(1544470)	Item 13	August 19, 2019	(1602542)
Item 5	December 13, 2018	(1548133)	Item 14	September 19, 2019	(1609443)
Item 6	January 22, 2019	(1568775)	Item 15	October 28, 2019	(1616278)
Item 7	February 27, 2019	(1568773)	Item 16	December 26, 2019	(1629409)
Item 8	March 20, 2019	(1568774)	Item 17	January 20, 2020	(1637063)
Item 9	April 19, 2019	(1575020)	Item 18	May 21, 2020	(1663070)

Item 19	June 17, 2020	(1669633)	Item 27	May 17, 2021	(1744568)
Item 20	July 20, 2020	(1676603)	Item 28	July 16, 2021	(1754676)
Item 21	August 17, 2020	(1683379)	Item 29	August 11, 2021	(1760106)
Item 22	October 15, 2020	(1696258)	Item 30	August 27, 2021	(1755874)
Item 23	November 19, 2020	(1721402)	Item 31	September 09, 2021	(1769877)
Item 24	December 18, 2020	(1721403)	Item 32	October 28, 2021	(1780790)
Item 25	January 15, 2021	(1721404)	Item 33	November 17, 2021	(1787040)
Item 26	February 22, 2021	(1734490)			

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: 02/28/2021 (1734491)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 2 Date: 03/31/2021 (1734492)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 3 Date: 05/31/2021 (1744569)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

- Notice of Intent Date: 09/26/2019 (1599194)
Disclosure Date: 10/18/2019
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to maintain records of annual concrete production on a 12-month rolling basis.
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to maintain records of inspection, repairs, and maintenance of abatement equipment.
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to maintain a copy of the manufacturer's suggested cleaning and maintenance schedule for abatement equipment.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to accurately represent conditions in permit. Condition 7 of Air permit is not consistent with language in CBP standard permits.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to prevent fugitive particulate emissions from Cement Silo 5 and Cement Silo 6. Emissions may have been above 5% opacity limit.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to prevent fugitive particulate emissions from tanker truck during off-loading activities. Fugitive particulate emissions were observed from a tanker truck off-loading cement into Cement Silo 5 and Cement Silo 6.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to remove spent brake shoes from parking lot near retention pond that discharges to outfall 006.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to properly store chemicals on site. Miscellaneous chemicals were improperly stored in the parking lot north of the maintenance shop.
Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain secondary containment area. Oil stains were identified outside the secondary containment area on north side of maintenance shop. The containment area also needs to be cleaned.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain parking lot outside of the maintenance shop. Several oil stains and other evidence of oil leaks/spills from parked concrete batch trucks were observed in several locations in the parking lot outside the maintenance shop.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to provide secondary containment for 55-gallon drums stored on site. Several 55-gal drums were identified inside the maintenance shop with no secondary containment.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to sample water at Outfalls 001 and 002. Water was observed entering the ditch line in route to Outfalls 001 and 002.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain solids loading capacity of the west pit system. Solids are accumulating in various locations throughout the raw materials area that continuously flows to the west detention pond and ultimately outfall 002. The west detention pond is not designed to handle the current solids loading.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to prevent sediment from migrating offsite. Sediment from the pond at the west end (Outfall 002) has migrated off site north through the railroad track culverts.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to prevent cement spills onsite. Cement spillage was observed near the fill pipes on the north side of the batching building.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to sample water at Outfall 006. No water samples have been taken at Outfall 006 (SW only - far east end).
Viol. Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to conduct quarterly visual monitoring at Outfall 6.

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
ARGOS USA LLC
RN107866931**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0877-WQ-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ARGOS USA 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 together stipulate that:

1. The Respondent owned and operated a concrete batch plant located at 2935 Commerce Street in Dallas, Dallas County, Texas (the "Plant"). The Plant is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$10,350 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$8,280 of the penalty and \$2,070 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or

required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. By May 31, 2021, the Respondent cleaned the channels and detention ponds of excess sediment, increased the frequency of water pit cleanings and inspections of drainage and treatment systems, and added hay bales and filter socks to provide additional treatment of process water discharge;
 - b. By June 15, 2021, the Respondent ceased operations and sold the Plant; and
 - c. By June 30, 2021, the Respondent achieved compliance with the permitted effluent limitations.

II. ALLEGATIONS

During a record review conducted on May 26, 2021, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG112346, Part III, Section A.1, Outfall Nos. 001 and 0002 as shown in the effluent violation table below:

Monitoring Period	Outfall No. 001	Outfall No. 0002
	Total Suspended Solids	Total Suspended Solids
	Daily Maximum Concentration Limit = 65 mg/L	Daily Maximum Concentration Limit = 65 mg/L
August 2020	109	100
February 2021	164	c
March 2021	107	c

c = compliant

mg/L = milligrams per liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ARGOS USA LLC, Docket No. 2021-0877-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. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or

reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



7/19/2022

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.



3/10/2022

Signature

Date

RICHARD EDWARDS

VICE PRESIDENT OF READY MIX

Name (Printed or typed)

Title

Authorized Representative of
ARGOS USA LLC

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