

Rickey Evans, Jr.
RN111035309
Docket No. 2021-1263-WQ-E

Order Type:
Default Order

Media:
WQ

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
south of Farm-to-Market Road 1844, Longview, Gregg County (the “Site”)

Type of Operation:
construction site

Other Significant Matters:

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

Texas Register Publication Date: December 8, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$4,987

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$4,987

Compliance History Classifications:

Person/CN – SATISFACTORY
Site/RN – SATISFACTORY

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 31, 2021; April 19, 2021; August 11, 2021

Date(s) of NOV(s): May 24, 2021

Date(s) of NOE(s): September 17, 2021

Rickey Evans, Jr.
RN111035309
Docket No. 2021-1263-WQ-E

Violation Information

1. Failed to maintain the TCEQ site notice near the main entrance of the construction site [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXR1581CB, Part III, Section D.2].
2. Failed to conduct inspections of disturbed areas as specified in the permit [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.7(a) and (e)].
3. Failed to initiate erosion control and stabilization measures where construction activities have temporarily ceased and will not resume within 14 days or where construction activities have permanently ceased [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.2(b)(iii)].
4. Failed to maintain sediment traps and sedimentation ponds [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.6(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Post the TCEQ site notice near the main entrance;
 - b. Develop and implement procedures and conduct employee training to ensure Site inspections are conducted; and
 - c. Begin conducting Site inspections.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. through 1.c.
3. Within 90 days:
 - a. Implement erosion control and stabilization measures at any disturbed area where activity has ceased permanently or will not resume for more than 14 days; and
 - b. Remove sediment from the sediment traps and sedimentation ponds.
4. Within 105 days submit written certification to demonstrate compliance with Technical Requirement Nos. 3.a. and 3.b.

Litigation Information

Date Petition(s) Filed: April 4, 2023
Date(s) of Service: May 9, 2023
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: William Hogan, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, (817) 588-5865
TCEQ Regional Contact: Ross Morgan, Tyler Regional Office, (903) 535-5100
Respondent Contact: Rickey Evans Jr., Owner., P.O. Box 450, Diana, Texas 75640
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	7-Sep-2021	Screening	20-Sep-2021	EPA Due	
	PCW	20-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Rickey Evans, Jr.
Reg. Ent. Ref. No.	RN111035309
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61375	No. of Violations	4
Docket No.	2021-1263-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steven Van Landingham
		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	\$4,750
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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	5.0% Adjustment	Subtotals 2, 3, & 7	\$237
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Notes: Enhancement for one NOV with the same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$152
 Estimated Cost of Compliance: \$2,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,987
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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	\$4,987
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,987
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$4,987
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Screening Date 20-Sep-2021

Docket No. 2021-1263-WQ-E

PCW

Respondent Rickey Evans, Jr.

Policy Revision 5 (January 28, 2021)

Case ID No. 61375

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111035309

Media Water Quality

Enf. Coordinator Steven Van Landingham

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with the same/similar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 20-Sep-2021
Respondent Rickey Evans, Jr.
Case ID No. 61375
Reg. Ent. Reference No. RN111035309
Media Water Quality
Enf. Coordinator Steven Van Landingham

Docket No. 2021-1263-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) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1581CB, Part III, Section D.2

Violation Description Failed to maintain the TCEQ site notice near the main entrance of the construction site. Specifically, the previously posted site notice was no longer onsite, and construction activity was ongoing.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

Greater than 70% of the rule requirement was not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 40 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended, calculated from the August 11, 2021 record review date to the September 20, 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Rickey Evans, Jr.
Case ID No. 61375
Reg. Ent. Reference No. RN111035309
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)	\$100	31-Mar-2021	16-Aug-2022	1.38	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to post the TCEQ site notice near the main entrance. The Date Required is the date the violation was initially documented, 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

\$100

TOTAL

\$7

Screening Date 20-Sep-2021 **Docket No.** 2021-1263-WQ-E **PCW**
Respondent Rickey Evans, Jr. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61375 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111035309
Media Water Quality
Enf. Coordinator Steven Van Landingham

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.7(a) and (e)

Violation Description Failed to conduct inspections of disturbed areas as specified in the permit. Specifically, the Respondent did not confirm that inspections had been performed, and inspection records were not provided.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="3.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> Programmatic Matrix

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

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="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 Rickey Evans, Jr.
Case ID No. 61375
Reg. Ent. Reference No. RN111035309
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	11-Aug-2021	16-Aug-2022	1.01	\$13	n/a	\$13
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	31-Mar-2021	17-Jul-2022	1.30	\$16	n/a	\$16

Notes for DELAYED costs

Estimated training/sampling cost to develop and implement procedures and conduct employee training to ensure Site inspections are conducted. The Date Required is the record review date, and the Final Date is the estimated date of compliance.

Estimated other cost to conduct Site inspections as required in the permit. The Date Required is the date the violation was initially documented, 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

\$29

Screening Date 20-Sep-2021 **Docket No.** 2021-1263-WQ-E **PCW**
Respondent Rickey Evans, Jr. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61375 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111035309
Media Water Quality
Enf. Coordinator Steven Van Landingham

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.2(b)(iii)

Violation Description
 Failed to initiate erosion control and stabilization measures where construction activities have temporarily ceased and will not resume within 14 days or where construction activities have permanently ceased. Specifically, greater than ten acres were disturbed with no observed activity since the previous investigation on July 29, 2020, and no erosion control or stabilization measures were implemented.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential			x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes
 Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 40 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

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 \$750

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

Estimated EB Amount \$77 **Violation Final Penalty Total** \$788

This violation Final Assessed Penalty (adjusted for limits) \$788

Economic Benefit Worksheet

Respondent Rickey Evans, Jr.
Case ID No. 61375
Reg. Ent. Reference No. RN111035309
Media Water Quality
Violation No. 3

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)	\$1,000	31-Mar-2021	15-Oct-2022	1.54	\$77	n/a	\$77

Notes for DELAYED costs

Estimated cost to implement erosion control and stabilization measures at any disturbed area where activity has ceased permanently or will not resume for more than 14 days. The Date Required is the date the violation was initially documented, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$77

Screening Date 20-Sep-2021 **Docket No.** 2021-1263-WQ-E **PCW**
Respondent Rickey Evans, Jr. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61375 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111035309
Media Water Quality
Enf. Coordinator Steven Van Landingham

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.6(c)

Violation Description Failed to maintain sediment traps and sedimentation ponds. Specifically, the sedimentation basin on the north side of the Site had reached 50% or more of the design capacity.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="3.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> Programmatic Matrix

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

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="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 Rickey Evans, Jr.
Case ID No. 61375
Reg. Ent. Reference No. RN111035309
Media Water Quality
Violation No. 4

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)	\$500	31-Mar-2021	15-Oct-2022	1.54	\$39	n/a	\$39

Notes for DELAYED costs

Estimated cost to remove sediment from the sediment traps and sedimentation ponds. The Date Required is the date the violation was initially documented, 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

\$39

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 CN605756204, RN111035309, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605756204, Rickey Evans, Jr. **Classification:** SATISFACTORY **Rating:** 5.33

Regulated Entity: RN111035309, RICKY EVANS, JR. **Classification:** SATISFACTORY **Rating:** 5.33

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

CH Group: 09 - Construction

Location: South of Farm-to-Market Road 1844 in Longview, Gregg County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s):
WATER QUALITY NON-PERMITTED ID NUMBER R5110974904 **STORMWATER PERMIT** TXR1581CB

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

Date Compliance History Report Prepared: January 27, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 27, 2017 to January 27, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Stephanie Frederick **Phone:** (512) 239-1001

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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: 05/24/2021 (1711531)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000/Part III/Section D.2 PERMIT
Description: Failure to maintain the Large Construction Site Notice posted onsite per TPDES
General Permit TXR150000, provision Part III, Section D.2.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000/Part III/Section F.7(a)-(g) PERMIT

Description: Failure to perform site inspections per TPDES General Permit TXR150000 provision Part III, Section F.7(a) through (g).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000/Part III/Section F.2(b)(iii) PERMIT
Description: Failure to immediately initiate erosion control and stabilization measures where construction activities have temporarily ceased per TPDES General Permit TXR150000, provision Part III, Section F.2(b)(iii).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000/Part III/Section F/6(c) PERMIT
Description: Failure to maintain sediment traps and sedimentation ponds per TPDES General Permit TXR150000, Part III, Section F, 6(c).

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
RICKEY EVANS, JR.;
RN111035309**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2021-1263-WQ-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Rickey Evans, Jr. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a construction site located south of Farm-to-Market Road 1844 in Longview, Gregg 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 on August 11, 2021, an investigator documented that Respondent:
 - a. Failed to maintain the TCEQ site notice near the main entrance of the construction site. Specifically, the previously posted site notice was no longer onsite, and construction activity was ongoing;
 - b. Failed to conduct inspections of disturbed areas as specified in the permit. Specifically, Respondent did not confirm that inspections had been performed, and inspection records were not provided;
 - c. Failed to initiate erosion control and stabilization measures where construction activities have temporarily ceased and will not resume within 14 days or where construction activities have permanently ceased. Specifically, greater than ten acres were disturbed with no observed activity since the previous investigation on July 29, 2020, and no erosion control or stabilization measures were implemented; and
 - d. Failed to maintain sediment traps and sedimentation ponds. Specifically, the sedimentation basin on the north side of the Site had reached 50% or more of the design capacity.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Rickey Evans, Jr." (the "EDPRP") in the TCEQ Chief Clerk's office on April 4, 2023.
4. By letter dated April 4, 2023, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on May 9, 2023, as evidenced by the signature on the card.

5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, 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., Respondent failed to maintain the TCEQ site notice near the main entrance of the construction site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1581CB, Part III, Section D.2.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct inspections of disturbed areas as specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.7(a) and (e).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to initiate erosion control and stabilization measures where construction activities have temporarily ceased and will not resume within 14 days or where construction activities have permanently ceased, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.2(b)(iii).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to maintain sediment traps and sedimentation ponds, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR1581CB, Part III, Section F.6(c).
6. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
7. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of four thousand nine hundred eighty-seven dollars (\$4,987.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of four thousand nine hundred eighty-seven dollars (\$4,987.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and 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 which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made

out to TCEQ and shall be sent with the notation "Re: Rickey Evans, Jr.; Docket No. 2021-1263-WQ-E" to:

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

3. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Order:
 - i. Post the TCEQ site notice near the main entrance;
 - ii. Develop and implement procedures and conduct employee training to ensure Site inspections are conducted; and
 - iii. Begin conducting Site inspections in accordance with the requirements of TPDES General Permit No. TXR1581CB.
 - b. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 3.e. to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii.
 - c. Within 90 days after the effective date of this Order:
 - i. Implement erosion control and stabilization measures at any disturbed area where activity has ceased permanently or will not resume for more than 14 days; and
 - ii. Remove sediment from the sediment traps and sedimentation ponds in accordance with the requirements of TPDES General Permit No. TXR1581CB.
 - d. Within 105 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 3.e. to demonstrate compliance with Ordering Provision Nos. 3.c.i. and 3.c.ii.
 - e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

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

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

and:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF WILLIAM HOGAN

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Rickey Evans, Jr.' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 4, 2023.

The EDPRP was mailed to Respondent's last known address on April 4, 2023, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on May 9, 2023, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is William Hogan, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 4th day of October, 2023

A handwritten signature in cursive script that reads "William Hogan".

Declarant