

**Executive Summary – Enforcement Matter – Case No. 61433**

**Hernandez Rock, Inc.**

**RN108128331**

**Docket No. 2021-1349-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Hernandez Rock, 8395 Hayworth Highway, Granbury, Hood County

**Type of Operation:**

Aggregate production operation (“APO”)

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 22, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,563

**Amount Deferred for Expedited Settlement:** \$3,112

**Total Paid to General Revenue:** \$373

**Total Due to General Revenue:** \$12,078

Payment Plan: 33 payments of \$366 each

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** \$7,656

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** July 27, 2021

**Date(s) of NOE(s):** September 10, 2021

**Executive Summary – Enforcement Matter – Case No. 61433**

**Hernandez Rock, Inc.**

**RN108128331**

**Docket No. 2021-1349-WQ-E**

***Violation Information***

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0002666 expired on April 16, 2019, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].
2. Failed to maintain a complete Stormwater Pollution Prevention Plan ("SWP3") and make it readily available upon request. Specifically, the Respondent failed to provide copies of the site map, site inspection records, quarterly visual monitoring records, and annual benchmark monitoring results [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System General Permit No. TXR05DL42, Part III.A.5.(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent registered the Site under APO Registration No. AP0001188 on November 11, 2021.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, begin maintaining a complete SWP3, including the SWP3 site map, site inspection records, quarterly visual monitoring records, and annual benchmark monitoring results; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Taylor Williamson, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2097; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Patrocinio Hernandez, President, Hernandez Rock, Inc., 4610 Weatherford Highway, Granbury, Texas 76049

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	13-Sep-2021			
	<b>PCW</b>	28-Sep-2021	<b>Screening</b>	21-Sep-2021	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Hernandez Rock, Inc.
<b>Reg. Ent. Ref. No.</b>	RN108128331
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61433	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1349-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Aggregate Production Operation	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Taylor Williamson
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$5,000	<b>Maximum</b>	\$20,000
		<b>Violation Maximum</b>	\$40,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	-10.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$600
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<b>Notes</b>	Reduction for High Performer Classification.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$600
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2,646	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,281	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,800
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	53.0%	<b>Adjustment</b>	\$2,544
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with the violation.
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<b>Final Penalty Amount</b>	\$7,344
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$15,000
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<b>Notes</b>	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$3,000
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$12,000
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Screening Date 21-Sep-2021

Docket No. 2021-1349-WQ-E

PCW

Respondent Hernandez Rock, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61433

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN108128331

Media Aggregate Production Operation

Enf. Coordinator Taylor Williamson

### 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)

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

#### >> Compliance History Summary

Compliance History Notes

Reduction for High Performer Classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** -10%

**Screening Date** 21-Sep-2021  
**Respondent** Hernandez Rock, Inc.  
**Case ID No.** 61433  
**Reg. Ent. Reference No.** RN108128331  
**Media** Aggregate Production Operation  
**Enf. Coordinator** Taylor Williamson

**Docket No.** 2021-1349-WQ-E

**PCW**

*Policy Revision 5 (January 28, 2021)  
 PCW Revision February 11, 2021*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 342.25(d)

**Violation Description** Failed to renew the Aggregate Production Operation ("APO") registration annually as regulated activities continued. Specifically, APO Registration No. AP0002666 expired on April 16, 2019, and the Respondent continued to operate.

**Base Penalty** \$20,000

**>> 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			10.0%

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment** \$18,000

\$2,000

**Violation Events**

Number of Violation Events 3      889 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$6,000

Three single events are recommended (one event for each missed renewal).

**Good Faith Efforts to Comply**

10.0%

Reduction \$600

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

**Notes** The Respondent achieved compliance on November 11, 2021.

**Violation Subtotal** \$5,400

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$2,646

**Violation Final Penalty Total** \$7,344

**This violation Final Assessed Penalty (adjusted for limits)** \$15,000

## Economic Benefit Worksheet

**Respondent** Hernandez Rock, Inc.  
**Case ID No.** 61433  
**Reg. Ent. Reference No.** RN108128331  
**Media Violation No.** Aggregate Production Operation  
 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	\$790	16-Apr-2019	11-Nov-2021	2.58	\$102	n/a	\$102
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to register the Site as an APO. The Date required is the date APO Registration No. AP0002666 expired, 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	\$2,491	16-Apr-2021	21-Sep-2021	0.43	\$53	\$2,491	\$2,544
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Estimated avoided cost to renew the APO registration and associated interest (\$790/renewal times three renewals plus \$121 interest that began accruing on April 16, 2019). The Date required is the date the last registration renewal was due, and the Final Date is the screening date.

**Approx. Cost of Compliance**

\$3,281

**TOTAL**

\$2,646



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	13-Sep-2021			
	<b>PCW</b>	28-Sep-2021	<b>Screening</b>	21-Sep-2021	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Hernandez Rock, Inc.				
<b>Reg. Ent. Ref. No.</b>	RN108128331				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	61433	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2021-1349-WQ-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Taylor Williamson		
		<b>EC's Team</b>	Enforcement Team 1		
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$625
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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.

<b>Compliance History</b>	-10.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$62
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<b>Notes</b>	Reduction for High Performer Classification.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$59	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$563
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$563
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$563
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$112
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$451
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Screening Date 21-Sep-2021

Docket No. 2021-1349-WQ-E

PCW

Respondent Hernandez Rock, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61433

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN108128331

Media Water Quality

Enf. Coordinator Taylor Williamson

### 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)

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

#### >> Compliance History Summary

Compliance History Notes

Reduction for High Performer Classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** -10%



**Screening Date** 21-Sep-2021  
**Respondent** Hernandez Rock, Inc.  
**Case ID No.** 61433  
**Reg. Ent. Reference No.** RN108128331  
**Media** Water Quality  
**Enf. Coordinator** Taylor Williamson

**Docket No.** 2021-1349-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 General Permit No. TXR05DL42, Part III.A.5.(b)

**Violation Description** Failed to maintain a complete Stormwater Pollution Prevention Plan ("SWP3") and make it readily available upon request. Specifically, the Respondent failed to provide copies of the site map, site inspection records, quarterly visual monitoring records, and annual benchmark monitoring results.

**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		2.5%

Matrix Notes

Between 30% and 70% of the rule requirements were not met.

**Adjustment** \$24,375

\$625

**Violation Events**

Number of Violation Events 1 56 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$625

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** \$625

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$59

**Violation Final Penalty Total** \$563

**This violation Final Assessed Penalty (adjusted for limits)** \$563

# Economic Benefit Worksheet

**Respondent** Hernandez Rock, Inc.  
**Case ID No.** 61433  
**Reg. Ent. Reference No.** RN108128331  
**Media Violation No.** Water Quality  
 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	\$500	27-Jul-2021	1-Dec-2023	2.35	\$59	n/a	\$59
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, 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** \$59

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 CN604764233, RN108128331, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN604764233, Hernandez Rock, Inc. **Classification:** HIGH **Rating:** 0.00  
**Regulated Entity:** RN108128331, HERNANDEZ ROCK **Classification:** HIGH **Rating:** 0.00  
**Complexity Points:** 5 **Repeat Violator:** NO  
**CH Group:** 04 - Mining  
**Location:** 8395 Hayworth Highway in Grandbury, Hood County, Texas  
**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**  
**AGGREGATE PRODUCTION OPERATION** REGISTRATION AP0001188 **STORMWATER PERMIT** TXR05DL42

**Compliance History Period:** September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

**Date Compliance History Report Prepared:** November 30, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 30, 2017 to November 30, 2022

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

**Name:** Ellen Ojeda

**Phone:** (512) 239-2581

## 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  
HERNANDEZ ROCK, INC.  
RN108128331

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1349-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 Hernandez Rock, Inc. (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because they are an owner and operator, as defined in TEX. WATER CODE § 28A.001(4) and (5), of an aggregate production operation ("APO") located at 8395 Hayworth Highway in Granbury, Hood County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1) and 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 chs. 26 and 28A 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 \$15,563 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$373 of the penalty, and \$3,112 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$12,078 of the undeferred penalty shall be paid in 33 monthly payments of \$366 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of

the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

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 on November 11, 2021, the Respondent registered the Site under APO Registration No. AP0001188.

## **II. ALLEGATIONS**

During an investigation conducted at the Site on July 27, 2021, an investigator documented that the Respondent:

1. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d). Specifically, APO Registration No. AP0002666 expired on April 16, 2019, and the Respondent continued to operate.
2. Failed to maintain a complete Stormwater Pollution Prevention Plan ("SWP3") and make it readily available upon request, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System General Permit No. TXR05DL42, Part III.A.5.(b). Specifically, the Respondent failed to provide copies of the site map, site inspection records, quarterly visual monitoring records, and annual benchmark monitoring results.

## **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: Hernandez Rock, Inc., Docket No. 2021-1349-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, begin maintaining a complete SWP3, including the SWP3 site map, site inspection records, quarterly visual monitoring records, and annual benchmark monitoring results. These SWP3 documents shall be submitted to the addresses listed in Ordering Provision No. 2.b.
  - 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:

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

with a copy to:

Water Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 Enforcement Division at the address listed above.
7. 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

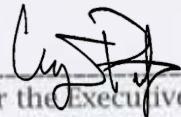


SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

  
For the Executive Director

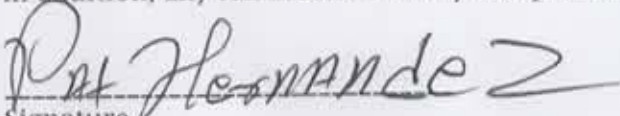
11/9/2023  
Date

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 OAG 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 OAG 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

10-09-2023  
Date

Patrocino Hernandez  
Name (Printed or typed)  
Authorized Representative of  
Hernandez Rock, Inc.

President  
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.