

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 61451
Texas Concrete Sand and Gravel, Inc.
RN108298225
Docket No. 2021-1362-WQ-E

Order Type:
Default Order

Media:
WQ

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
100 County Road 397, Cleveland, Liberty County

Type of Operation:
sand and gravel mining operation

Other Significant Matters:
Additional Pending Enforcement Actions: Yes, 2023-0360-WQ-E
Past-Due Penalties: None
Other: None
Interested Third Parties: None

Texas Register Publication Date: January 12, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,075

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$10,075

Compliance History Classifications:
Person/CN - Unsatisfactory
Site/RN - Unsatisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): May 7, 2021

Complaint Information: The complainant alleged a discharge.

Date(s) of Investigation: May 5, 2021 through May 10, 2021

Date(s) of NOV(s): N/A

Date(s) of NOE(s): July 8, 2021

Texas Concrete Sand and Gravel, Inc.

RN108298225

Docket No. 2021-1362-WQ-E

Violation Information

1. Failed to install and maintain best management practices at the Facility which resulted in a discharge of pollutants into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Multi-Sector General Permit (“MSGP”) No. TXR05DH80, Part V, Section J, No. 5(b)].
2. Failed to report an unauthorized discharge orally to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division, within five days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05DH80, Part III, Section E, No. 6(b)(1)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. As of May 5, 2021, repaired the berm breaches between the South Process Water Pond and the East Fork of the San Jacinto River and notified the TCEQ Regional Office of the unauthorized discharge orally.
2. As of May 12, 2021, prepared and submitted a noncompliance notification for the unauthorized discharge.

Technical Requirements:

None

Litigation Information**Date Petition(s) Filed:** May 26, 2023; August 8, 2023**Date(s) of Service:** Unclaimed; August 11, 2023**Date Answer(s) Filed:** N/AContact Information**TCEQ Attorneys:** Taylor Pearson, 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:** Westin Massey, Houston Regional Office, (713) 767-3500**Respondent Contact:** Somaiah Kurre, President, Texas Concrete Sand and Gravel, Inc., 1017
Wakefield Drive, Houston, Texas 77018**Respondent's Attorney:** N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	12-Jul-2021	Screening	13-Jul-2021	EPA Due	
	PCW	7-Dec-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Concrete Sand and Gravel, Inc.
Reg. Ent. Ref. No.	RN108298225
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61451	No. of Violations	2
Docket No.	2021-1362-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		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	\$6,500
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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	55.0%	Adjustment	Subtotals 2, 3, & 7	\$3,575
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Notes: Enhancement for one order containing a denial of liability, Repeat Violator Classification, and an Unsatisfactory Performer Classification.

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: \$2
 Estimated Cost of Compliance: \$5,030
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,075
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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	\$10,075
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,075
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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	\$10,075
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Screening Date 13-Jul-2021

Docket No. 2021-1362-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61451

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN108298225

Media Water Quality

Enf. Coordinator Cheryl Thompson

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>)	1	20%
	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) 20%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability, Repeat Violator Classification, and an Unsatisfactory Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 55%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 55%

Screening Date 13-Jul-2021

Docket No. 2021-1362-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61451

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN108298225

Media Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DH80, Part V, Section J, No. 5(b)

Violation Description Failed to install and maintain best management practices at the Facility which resulted in a discharge of pollutants into or adjacent to any water in the state. Specifically, on May 1, 2021, four berm breaches occurred between the South Process Water Pond and the East Fork of the San Jacinto River. Water from the East Fork of the San Jacinto River flowed into the South Process Water Pond through two berm breaches in the northwestern corner, comingled with the process water, and discharged back into the East Fork of the San Jacinto River through two berm breaches in the southwestern corner of the South Process Water Pond, resulting in the discharge of process water.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$18,750

\$6,250

Violation Events

Number of Violation Events 1 Number of violation days 4

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$6,250

One monthly event is recommended from the date the unauthorized discharge began (May 1, 2021) to the date of compliance (May 4, 2021).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Table with categories: Extraordinary, Ordinary, N/A.

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$9,688

This violation Final Assessed Penalty (adjusted for limits) \$9,688

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc.
Case ID No. 61451
Reg. Ent. Reference No. RN108298225
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)	\$5,000	1-May-2021	4-May-2021	0.01	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to repair the berm breaches between the South Process Water Pond and the East Fork of the San Jacinto River. Date required is the date the breaches occurred. 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

\$5,000

TOTAL

\$2

Screening Date 13-Jul-2021 **Docket No.** 2021-1362-WQ-E **PCW**
Respondent Texas Concrete Sand and Gravel, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61451 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN108298225
Media Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES MSGP No. TXR05DH80, Part III, Section E, No. 6(b)(1)
Violation Description Failed to report an unauthorized discharge orally to the Texas Commission on Environmental Quality ("TCEQ") Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division within five days of becoming aware of the noncompliance. Specifically, the unauthorized discharge began on May 1, 2020, and the oral and written noncompliance notifications were not completed in a timely manner.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1.0%

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

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 11 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$388

This violation Final Assessed Penalty (adjusted for limits) \$388

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc.
Case ID No. 61451
Reg. Ent. Reference No. RN108298225
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 (1)	\$5	2-May-2021	4-May-2021	0.01	\$0	n/a	\$0
Other (2)	\$25	6-May-2021	12-May-2021	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Other delayed cost (1) is the estimated amount to notify the TCEQ Regional Office of the unauthorized discharge orally. Date required is the date the notification was due. Final date is the date the TCEQ Regional Office was notified orally.

Other delayed cost (2) is the estimated amount to prepare and submit a noncompliance notification for the unauthorized discharge. Date required is the date the notification was due. 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

\$30

TOTAL

\$0



Compliance History Report

Compliance History Report for CN604045708, RN108298225, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN604045708, Texas Concrete Sand and Gravel, Inc. **Classification:** UNSATISFACTORY **Rating:** 105.70

Regulated Entity: RN108298225, CLEVELAND PLANT **Classification:** UNSATISFACTORY **Rating:** 104.17

Complexity Points: 6 **Repeat Violator:** YES

CH Group: 04 - Mining

Location: 100 County Road 397 in Cleveland, Liberty County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AGGREGATE PRODUCTION OPERATION REGISTRATION AP0002939 **STORMWATER PERMIT** TXR05FH02

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

Date Compliance History Report Prepared: June 16, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 16, 2017 to June 16, 2022

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

Name: Katelyn Tubbs

Phone: (512) 239-2512

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:

- 1 Effective Date: 08/18/2020 ADMINORDER 2019-1190-WQ-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 281, SubChapter A 281.25(a)(4)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
Rqmt Prov: TPDES General Permit No. TXR05DH80, Part PERMIT
Description: Failed to maintain a complete SWP3, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a), 40 CODE OF FEDERAL REGULATIONS § 122.26(c), and TPDES General Permit No. TXR05DH80, Part III, SWP3.
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2)
Description: Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(2).

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 3 May 03, 2022 (1811122)

SWP3.
Self Report? NO Classification: Moderate
Citation:
2D TWC Chapter 26, SubChapter A 26.121(a)(2)
TXR050000, Part III, Section E PERMIT
Description: Failure to prevent the unauthorized discharge of process water into waters of the state.

4 Date: 10/24/2019 (1599325)
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 281, SubChapter A 281.25(a)(4)
MSGP III.A.3.(d)() PERMIT
Description: Failure to identify the location of each outfall covered by the Stormwater Multi Sector General Permit (MSGP).

* NOVs applicable for the Compliance History rating period 9/1/2016 to 8/31/2021

Appendix B
All Investigations Conducted During Component Period June 16, 2017 and June 16, 2022

Item 1	May 04, 2018**	(1473756)
Item 2	October 24, 2019**	(1599325)
Item 3*	May 03, 2022	(1811122)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2016 and 08/31/2021.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS CONCRETE SAND AND
GRAVEL, INC.;
RN108298225

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2021-1362-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. The respondent made the subject of this Order is Texas Concrete Sand and Gravel, Inc. (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owns and operates sand and gravel mining operation located at 100 County Road 397 in Cleveland, Liberty County, Texas (the “Facility”). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted on May 5, 2021 through May 10, 2021, an investigator documented that Respondent:
 - a. Failed to install and maintain best management practices at the Facility which resulted in a discharge of pollutants into or adjacent to any water in the state. Specifically, on May 1, 2021, four berm breaches occurred between the South Process Water Pond and the East Fork of the San Jacinto River. Water from the East Fork of the San Jacinto River flowed into the South Process Water Pond through two berm breaches in the northwestern corner, comingled with the process water, and discharged back into the East Fork of the San Jacinto River through two berm breaches in the southwestern corner of the South Process Water Pond, resulting in the discharge of process water; and
 - b. Failed to report an unauthorized discharge orally to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division, within five days of becoming aware of the noncompliance. Specifically, the unauthorized discharge began on May 1, 2020, and the oral and written noncompliance notifications were not completed in a timely manner.
3. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. As of May 5, 2021, repaired the berm breaches between the South Process Water Pond and the East Fork of the San Jacinto River and notified the TCEQ Regional Office of the unauthorized discharge orally; and
 - b. As of May 12, 2021, prepared and submitted a noncompliance notification for the unauthorized discharge.
4. 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 Texas Concrete Sand and Gravel, Inc.” (the “EDPRP”) in the TCEQ Chief Clerk’s office on May 26, 2023.

5. The EDPRP was mailed to Respondent's last known address on May 26, 2023, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on August 8, 2023.
7. By letter dated August 8, 2023, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on August 11, 2023.
8. 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 install and maintain best management practices at the Facility which resulted in a discharge of pollutants into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DH80, Part V, Section J, No. 5(b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to report an unauthorized discharge orally to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division, within five days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05DH80, Part III, Section E, No. 6(b)(1).
4. As evidenced by Findings of Fact Nos. 4 through 7, 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).
5. As evidenced by Finding of Fact No. 8, 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.
6. 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.
7. An administrative penalty in the amount of \$10,075 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 \$10,075 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: Texas Concrete Sand and Gravel, Inc.; Docket No. 2021-1362-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF TAYLOR W. PEARSON

"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 Texas Concrete Sand and Gravel, Inc.' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 26, 2023.

The EDPRP was mailed to Respondent's last known address on May 26, 2023, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on August 8, 2023.

The EDPRP was mailed to Respondent's last known address on August 8, 2023, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on August 11, 2023.

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 Taylor Wayne Pearson 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 14th day of December, 2023

A handwritten signature in blue ink that reads "Taylor Pearson".

Declarant