

**Executive Summary – Enforcement Matter – Case No. 60912**  
**NL CONSTRUCTION, L.L.C.**  
**RN110656501**  
**Docket No. 2021-1494-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

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

NL Construction Dirt Pit, 20477 Farm-to-Market Road 787, Cleveland, Liberty 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: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** September 30, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,500

**Amount Deferred for Expedited Settlement:** \$2,300

**Total Paid to General Revenue:** \$275

**Total Due to General Revenue:** \$8,925

Payment Plan: 35 payments of \$255 each

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** \$3,700

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** January 29, 2021

**Complaint Information:** Alleged a facility was operating without the proper authorization.

**Date(s) of Investigation:** March 5, 2021

**Date(s) of NOE(s):** May 4, 2021

**Executive Summary – Enforcement Matter – Case No. 60912**  
**NL CONSTRUCTION, L.L.C.**  
**RN110656501**  
**Docket No. 2021-1494-WQ-E**

***Violation Information***

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0002913 expired on January 30, 2021, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].
  
2. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit No. TXR05EG87 was terminated on November 19, 2020, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(1), and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. Registering the Site as an APO and obtaining APO Registration No. AP0003493 by March 8, 2021; and
  
- b. Developing and implementing a stormwater pollution prevention plan, submitting a Notice of Intent, and obtaining authorization to discharge stormwater associated with industrial activities under TPDES Multi-Sector General Permit No. TXR05EU18 by March 9, 2021.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Alejandro Laje, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2547; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Norman Land, Manager, NL CONSTRUCTION, L.L.C., 395 County Road 2229, Cleveland, Texas 77327

**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>	10-May-2021	<b>Screening</b>	15-Jun-2021	<b>EPA Due</b>	
	<b>PCW</b>	18-Nov-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	NL CONSTRUCTION, L.L.C.
<b>Reg. Ent. Ref. No.</b>	RN110656501
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60912	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1494-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>	Water Quality	<b>Enf. Coordinator</b>	Alejandro Laje
		<b>EC's Team</b>	Enforcement Team 3
<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>	<b>\$2,000</b>
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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>	<b>-10.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>-\$200</b>
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Notes: Reduction for High Performer Classification.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$500</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$4  
 Estimated Cost of Compliance: \$790  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,300</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,300</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,000</b>
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Notes: The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.

<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$1,000</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$4,000</b>
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Screening Date 15-Jun-2021

Docket No. 2021-1494-WQ-E

PCW

Respondent NL CONSTRUCTION, L.L.C.

Policy Revision 5 (January 28, 2021)

Case ID No. 60912

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN110656501

Media Aggregate Production Operation

Enf. Coordinator Alejandro Laje

### 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** 15-Jun-2021 **Docket No.** 2021-1494-WQ-E **PCW**  
**Respondent** NL CONSTRUCTION, L.L.C. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60912 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN110656501  
**Media** Aggregate Production Operation  
**Enf. Coordinator** Alejandro Laje

**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. AP0002913 expired on January 30, 2021, 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**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10.0%

100% of the rule requirement was not met.

**Adjustment** \$18,000

\$2,000

**Violation Events**

Number of Violation Events 1 38 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,000

One single event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$500

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

Notes The Respondent achieved compliance on March 8, 2021.

**Violation Subtotal** \$1,500

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

**Estimated EB Amount** \$4 **Violation Final Penalty Total** \$1,300

**This violation Final Assessed Penalty (adjusted for limits)** \$5,000

## Economic Benefit Worksheet

**Respondent** NL CONSTRUCTION, L.L.C.  
**Case ID No.** 60912  
**Reg. Ent. Reference No.** RN110656501  
**Media** Aggregate Production Operation  
**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	\$790	31-Jan-2021	8-Mar-2021	0.10	\$4	n/a	\$4
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to register the Site as an APO and obtain APO Registration No. AP0003493. Date required is the date APO Registration No. AP0002913 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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$790

**TOTAL**

\$4



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	10-May-2021	<b>Screening</b>	15-Jun-2021	<b>EPA Due</b>	
	<b>PCW</b>	18-Nov-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	NL CONSTRUCTION, L.L.C.
<b>Reg. Ent. Ref. No.</b>	RN110656501
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60912	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-1494-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>	Alejandro Laje
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ 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>	\$10,000
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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>	-\$1,000
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Notes: Reduction for High Performer Classification.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$2,500
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$2  
 Estimated Cost of Compliance: \$100  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,500
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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.

Notes:

<b>Final Penalty Amount</b>	\$6,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,500
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$1,300
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,200
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**Screening Date** 15-Jun-2021

**Docket No.** 2021-1494-WQ-E

**PCW**

**Respondent** NL CONSTRUCTION, L.L.C.

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 60912

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN110656501

**Media** Water Quality

**Enf. Coordinator** Alejandro Laje

### 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** 15-Jun-2021  
**Respondent** NL CONSTRUCTION, L.L.C.  
**Case ID No.** 60912  
**Reg. Ent. Reference No.** RN110656501  
**Media** Water Quality  
**Enf. Coordinator** Alejandro Laje

**Docket No.** 2021-1494-WQ-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121(a)(1), and 40 Code of Federal Regulations § 122.26(c)

**Violation Description**

Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05EG87 was terminated on November 19, 2020, and the Respondent continued to operate.

**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			10.0%

Matrix Notes

100% of the rule requirements were not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 4      110 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$10,000

Four monthly events are recommended, calculated from the date authorization was terminated (November 19, 2020) to the date of compliance (March 9, 2021).

**Good Faith Efforts to Comply**

25.0%

Reduction \$2,500

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

Extraordinary		
Ordinary	X	
N/A		

Notes

The Respondent achieved compliance on March 9, 2021.

**Violation Subtotal** \$7,500

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

**Statutory Limit Test**

**Estimated EB Amount** \$2

**Violation Final Penalty Total** \$6,500

**This violation Final Assessed Penalty (adjusted for limits)** \$6,500

## Economic Benefit Worksheet

**Respondent** NL CONSTRUCTION, L.L.C.  
**Case ID No.** 60912  
**Reg. Ent. Reference No.** RN110656501  
**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	\$100	19-Nov-2020	9-Mar-2021	0.30	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0
<b>Notes for DELAYED costs</b>	Estimated cost to develop and implement a stormwater pollution prevention plan, submit a Notice of Intent, and obtain authorization to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05EU18. Date required is the date TPDES MSGP No. TXR05EG87 was terminated, 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
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
<b>Notes for AVOIDED costs</b>							

<b>Approx. Cost of Compliance</b>	\$100	<b>TOTAL</b>	\$2
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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 CN603127044, RN110656501, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN603127044, NL CONSTRUCTION, L.L.C. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN110656501, NL CONSTRUCTION DIRT PIT **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 6 **Repeat Violator:** NO

**CH Group:** 04 - Mining

**Location:** 20477 Farm-to-Market Road 787 in Cleveland, Liberty County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**AGGREGATE PRODUCTION OPERATION REGISTRATION** AP0003493 **STORMWATER PERMIT** TXR05EU18

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

**Date Compliance History Report Prepared:** February 15, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 15, 2017 to February 15, 2022

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Alejandro Laje **Phone:** (512) 239-1000

## 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.):**  
Item 1 August 31, 2021 (1749785)

**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

**Component Appendices**

**Appendix A**

**All NOVs Issued During Component Period 2/15/2017 and 2/15/2022**

N/A

For Informational Purposes Only

**Appendix B**

**All Investigations Conducted During Component Period February 15, 2017 and February 15, 2022**

(1749785)

Item 1\*

August 31, 2021\*\*

For Informational Purposes Only

\* 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  
NL CONSTRUCTION, L.L.C.  
RN110656501

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY  
§

## AGREED ORDER DOCKET NO. 2021-1494-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 NL CONSTRUCTION, L.L.C. (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 it is an owner and operator, as defined in TEX. WATER CODE § 28A.001(4) and (5), of an aggregate production operation ("APO") located at 20477 Farm-to-Market Road 787 in Cleveland, Liberty 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). The Site 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 \$11,500 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$275 of the penalty, and \$2,300 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 \$8,925 of the undeferred penalty shall be paid in 35 monthly payments of \$255 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 the Respondent implemented the following corrective measures at the Site:
  - a. By registering the Site as an APO and obtaining APO Registration No. AP0003493 by March 8, 2021; and
  - b. By developing and implementing a stormwater pollution prevention plan, submitting a Notice of Intent, and obtaining authorization to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05EU18 by March 9, 2021.

## II. ALLEGATIONS

During an investigation conducted on March 5, 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. AP0002913 expired on January 30, 2021, and the Respondent continued to operate.
2. Failed to maintain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(1), and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under TPDES MSGP No. TXR05EG87 was terminated on November 19, 2020, and the Respondent continued to operate.

### 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: NL CONSTRUCTION, L.L.C., Docket No. 2021-1494-WQ-E" to:  

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. 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.
4. 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.
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 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.
6. 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.
7. 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



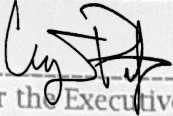
reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose 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.

8. 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

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For the Commission



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Date

2/24/2023

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For the Executive Director

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Date

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

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

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

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



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Signature

7-1-22

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Date

NORMAN LAUS

-----  
Name (Printed or typed)

OWNER

-----  
Title

Authorized Representative of  
NL CONSTRUCTION, L.L.C.

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