

**Executive Summary – Enforcement Matter – Case No. 61607**

**JW Sands, LLC**

**RN110059409**

**Docket No. 2021-1527-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

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

JW Sands, 22592 State Highway 16 South near Von Army, Bexar County

**Type of Operation:**

Sand processing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 17, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$131,000

**Amount Deferred for Expedited Settlement:** \$26,200

**Total Paid to General Revenue:** \$104,800

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** October 19, 2021

**Date(s) of NOE(s):** November 23, 2021

**Executive Summary – Enforcement Matter – Case No. 61607**

**JW Sands, LLC**

**RN110059409**

**Docket No. 2021-1527-AIR-E**

***Violation Information***

1. Failed to comply with the maximum allowable emissions rate ("MAER") and failed to comply with the emissions limit. Specifically, during a stack test conducted on November 14, 2019, the Respondent exceeded the particulate matter ("PM") MAER of 1.02 pounds per hour ("lb/hr") by 20.08 lbs/hr and the PM emissions limit of 0.040 grain per dry standard cubic foot ("g/dscf") by 0.070 g/dscf for the Dryer Baghouse Stack, Emissions Point Number ("EPN") 11, resulting in approximately 87,709.44 pounds of unauthorized PM emissions [30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(b)(2)(F) and (c), 40 CODE OF FEDERAL REGULATIONS ("CFR") §§ 60.8(f)(1) and 60.732(a), New Source Review ("NSR") Permit No. 156623, Special Conditions ("SC") No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to submit a copy of each performance test report within 60 days after the test has been completed. Specifically, a performance test for EPN 11 was conducted on November 14, 2019 and the performance test report was due by January 13, 2020, but was not submitted [30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c), 40 CFR § 60.8(a), NSR Permit No. 156623, SC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On October 26, 2021, the Respondent submitted the performance test report for the performance test for EPN 11 that was conducted on November 14, 2019.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 15 days, submit a notification to the Air Section Manager to schedule a pretest meeting prior to conducting stack sampling;
- b. Within 60 days, conduct a stack test demonstrating compliance with the PM MAER and PM emissions limit for EPN 11;
- c. Within 75 days, submit written certification to demonstrate compliance with b.;
- d. Within 105 days, submit copies of the final sampling report to the Air Section Manager; and
- e. Within 120 days, submit written certification to demonstrate compliance with d.

**Executive Summary – Enforcement Matter – Case No. 61607**

**JW Sands, LLC**

**RN110059409**

**Docket No. 2021-1527-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Mateo Hernandez, General Manager, JW Sands, LLC, P.O. Box 470, Somerset, Texas 78069

Justin Renfro, Chief Executive Officer, JW Sands, LLC, P.O. Box 470, Somerset, Texas 78069

**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>	30-Nov-2021	<b>Screening</b>	30-Nov-2021	<b>EPA Due</b>	
	<b>PCW</b>	23-Jan-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	JW Sands, LLC
<b>Reg. Ent. Ref. No.</b>	RN110059409
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61607	<b>No. of Violations</b>	2
<b>Docket No.</b>	2021-1527-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 2
<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>	<b>\$146,250</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>-\$14,625</b>
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Notes: Reduction for High Performer classification.

<b>Culpability</b>	No	<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>-\$625</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: \$1,071  
 Estimated Cost of Compliance: \$8,250  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$131,000</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>\$131,000</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$131,000</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$26,200</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>\$104,800</b>
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**Screening Date** 30-Nov-2021

**Docket No.** 2021-1527-AIR-E

**PCW**

**Respondent** JW Sands, LLC

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61607

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN110059409

**Media** Air

**Enf. Coordinator** Danielle Porras

### 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** 30-Nov-2021 **Docket No.** 2021-1527-AIR-E **PCW**  
**Respondent** JW Sands, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61607 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN110059409  
**Media** Air  
**Enf. Coordinator** Danielle Porras

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(1) and 116.115(b)(2)(F) and (c), 40 Code of Federal Regulations ("CFR") §§ 60.8(f)(1) and 60.732(a), New Source Review ("NSR") Permit No. 156623, Special Conditions ("SC") No. 14, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to comply with the maximum allowable emissions rate ("MAER") and failed to comply with the emissions limit. Specifically, during a stack test conducted on November 14, 2019, the Respondent exceeded the particulate matter ("PM") MAER of 1.02 pounds per hour ("lb/hr") by 20.08 lbs/hr and the PM emissions limit of 0.040 grain per dry standard cubic foot ("g/dscf") by 0.070 g/dscf for the Dryer Baghouse Stack, Emissions Point Number ("EPN") 11, resulting in approximately 87,709.44 lbs of unauthorized PM emissions.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25.0%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	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 environmental receptors as a result of the violation.

**Adjustment** \$18,750

\$6,250

**Violation Events**

Number of Violation Events 23 364 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$143,750

Twenty three monthly events are recommended from the November 14, 2019 stack test date to the November 30, 2021 screening date.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$143,750

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

**Estimated EB Amount** \$1,049 **Violation Final Penalty Total** \$129,375

**This violation Final Assessed Penalty (adjusted for limits)** \$129,375

## Economic Benefit Worksheet

**Respondent** JW Sands, LLC  
**Case ID No.** 61607  
**Reg. Ent. Reference No.** RN110059409  
**Media** Air  
**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)	\$8,000	14-Nov-2019	28-Jun-2022	2.62	\$1,049	n/a	\$1,049

**Notes for DELAYED costs**

Estimated cost to conduct a stack test demonstrating compliance with the PM MAER and PM emissions limit for EPN 11. The Date Required is the initial date of non-compliance 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

\$8,000

**TOTAL**

\$1,049

**Screening Date** 30-Nov-2021 **Docket No.** 2021-1527-AIR-E **PCW**  
**Respondent** JW Sands, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61607 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN110059409  
**Media** Air  
**Enf. Coordinator** Danielle Porras

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(1) and 116.115(c), 40 CFR § 60.8(a), NSR Permit No. 156623, SC No. 14, and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to submit a copy of each performance test report within 60 days after the test has been completed. Specifically, a performance test for EPN 11 was conducted on November 14, 2019 and the performance test report was due by January 13, 2020, but was not submitted.

**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 requirement was not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 1 652 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,500

One single event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$625

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

**Notes** The Respondent completed the corrective action on October 26, 2021 prior to the Notice of Enforcement dated November 23, 2021.

**Violation Subtotal** \$1,875

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

**Estimated EB Amount** \$22 **Violation Final Penalty Total** \$1,625

**This violation Final Assessed Penalty (adjusted for limits)** \$1,625



## Economic Benefit Worksheet

**Respondent** JW Sands, LLC  
**Case ID No.** 61607  
**Reg. Ent. Reference No.** RN110059409  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	13-Jan-2020	26-Oct-2021	1.79	\$22	n/a	\$22

#### Notes for DELAYED costs

Estimated cost to submit the performance test report for the performance test for EPN 11 that was conducted on November 14, 2019. The Date Required is the date the report was due 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

\$250

**TOTAL**

\$22

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 CN605486307, RN110059409, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN605486307, JW Sands, LLC      **Classification:** HIGH      **Rating:** 0.00

**Regulated Entity:** RN110059409, JW Sands      **Classification:** HIGH      **Rating:** 0.00

**Complexity Points:** 5      **Repeat Violator:** NO

**CH Group:** 04 - Mining

**Location:** 22592 State Highway 16 South Von Ormy, Bexar County, Texas

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

**AIR NEW SOURCE PERMITS PERMIT 156623**

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

**Date Compliance History Report Prepared:** December 20, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 20, 2017 to December 20, 2022

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

**Name:** Danielle Porras

**Phone:** (713) 767-3682

## 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?      YES
- 3) Who is the current owner/operator?      JW Sands, LLC OWNER OPERATOR since 3/20/2018
- 4) Who was/were the prior owner(s)/operator(s)?      Pownall Services LLC, OWNER, 12/7/2017 to 3/19/2018

## 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	October 26, 2018	(1523856)
Item 2	July 02, 2019	(1558349)

### **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  
JW SANDS, LLC  
RN110059409

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1527-AIR-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 JW Sands, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a sand processing plant located at 22592 State Highway 16 South near Von Ormy, Bexar County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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. HEALTH & SAFETY CODE ch. 382 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 \$131,000 assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$104,800 of the penalty and \$26,200 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that on October 26, 2021, the Respondent submitted the performance test report for the performance test for Emissions Point Number ("EPN") 11 that was conducted on November 14, 2019.

## **II. ALLEGATIONS**

During an investigation conducted for the Plant on October 19, 2021, an investigator documented that the Respondent:

1. Failed to comply with the maximum allowable emissions rate ("MAER") and failed to comply with the emissions limit, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(b)(2)(F) and (c), 40 CODE OF FEDERAL REGULATIONS ("CFR") §§ 60.8(f)(1) and 60.732(a), New Source Review ("NSR") Permit No. 156623, Special Conditions ("SC") No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, during a stack test conducted on November 14, 2019, the Respondent exceeded the particulate matter ("PM") MAER of 1.02 pounds per hour ("lb/hr") by 20.08 lbs/hr and the PM emissions limit of 0.040 grain per dry standard cubic foot ("g/dscf") by 0.070 g/dscf for the Dryer Baghouse Stack, EPN 11, resulting in approximately 87,709.44 pounds of unauthorized PM emissions.
2. Failed to submit a copy of each performance test report within 60 days after the test has been completed, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c), 40 CFR § 60.8(a), NSR Permit No. 156623, SC No. 14, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, a performance test for EPN 11 was conducted on November 14, 2019 and the performance test report was due by January 13, 2020, but was not submitted.

## **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: JW Sands, LLC, Docket No. 2021-1527-AIR-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 at the Plant:
  - a. Within 15 days after the effective date of this Order, submit a notification to the Air Section Manager at the address in Ordering Provision No. 2.e to schedule a pretest meeting prior to conducting stack sampling.
  - b. Within 60 days after the effective date of this order, conduct a stack test demonstrating compliance with the PM MAER and PM emissions limit for EPN 11.
  - c. Within 75 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.b, as described in Ordering Provision No. 2.e.
  - d. Within 105 days after the effective date of this Order, submit copies of the final sampling report to the Air Section Manager at the address in Ordering Provision No. 2.e.
  - e. Within 120 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.d. 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:

Air Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

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 Plant 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

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For the Commission

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Date

  
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For the Executive Director

4/17/2023

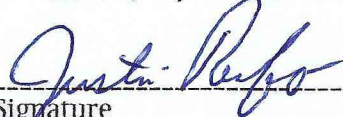
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Date

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 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.

  
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Signature

02/08/23  
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Date

Justin Renfro  
-----  
Name (Printed or typed)  
Authorized Representative of  
JW Sands, LLC

CEO - JW Sands, LLC  
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Title

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