

Raitz Enterprises Inc
RN111364469
Docket No. 2022-0052-WQ-E

Order Type:
Agreed Order

Media:
Water Quality

Small Business:
Yes

Location Where Violations Occurred:
on Farm-to-Market Road 1476 at the intersection of Farm-to-Market Road 1476 and County Road 343
(West Side of Farm-to-Market Road 1476), Proctor, Comanche County (the “Site”)

Type of Operation:
aggregate production operation

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$1,640
Past-Due Fees:	None
Other:	None
Interested Third Parties:	None

Texas Register Publication Date: December 13, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,500

Total Paid to General Revenue: \$355

Total Due to General Revenue: \$12,145

Payment Plan: 35 payments of \$347

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: \$4,000 (Enhancement)

Applicable Penalty Policy: April 2014; January 28, 2021

Investigation Information

Complaint Date: October 16, 2021

Complaint Information: Complainant alleged stockpiled manure in a sand pit may affect ground water.

Date of Investigation: November 2, 2021

Date of NOV: N/A

Date of NOE: December 14, 2021

Raitz Enterprises Inc
RN111364469
Docket No. 2022-0052-WQ-E

Violation Information

1. Failed to register the Site as an aggregate production operation (“APO”) no later than the 10th business day before the beginning date of regulated activities [30 TEX ADMIN CODE § 342.25].
2. Failed to obtain authorization to discharge stormwater associated with industrial activities [TEX WATER CODE § 26.121, 30 TEX ADMIN CODE § 281.25(a)(4), and 40 C.F.R. § 122.26(c)].

Corrective Actions/Technical Requirements

Corrective Action Completed: Respondent registered the Site as an APO as of June 8, 2022.

Technical Requirements:

1. Within 30 days:
 - a. Develop and implement a Stormwater Pollution Prevention Plan to comply with the requirements of Texas Pollutant Discharge Elimination System General Permit No. TXR050000; and
 - b. Submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System to obtain authorization to discharge stormwater.
2. Within 45 days Submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. and 1.b.

Litigation Information

Date Petition Filed:	October 5, 2023
Date of Service:	October 10, 2023
Date Answer Filed:	March 25, 2024
SOAH Referral Date:	August 16, 2024
Hearing Date:	
Preliminary hearing:	October 10, 2024
Settlement Date:	November 5, 2024

Contact Information

TCEQ Attorneys: William Hogan, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, (817) 588-5865

TCEQ Regional Contact: Cliff Moore, Abilene Regional Office, (325) 698-9674

Respondent Contact: Brad Rowe, President, U.S. Sand and Gravel, 1111 North Graham Street,
Stephenville, Texas 76401

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	20-Dec-2021			
	PCW	7-Aug-2023	Screening	4-Jan-2022	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Raitz Enterprises Inc	
Reg. Ent. Ref. No.	RN111364469	
Facility/Site Region	3-Abilene	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	61761	No. of Violations	1
Docket No.	2022-0052-WQ-E	Order Type	1660
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$20,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
---------------------------	------	-------------------	--------------------------------	-----

Notes	No adjustment for Compliance History.
--------------	---------------------------------------

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	--------------------	-------------------	-----

Notes	The Respondent does not meet the culpability criteria.
--------------	--

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	---------------------	-------------------	-----

Total EB Amounts	\$24	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$790	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,000
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount	\$1,000
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
-----------------------------------	-------------------------------	---------

Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.
--------------	---

DEFERRAL		Reduction	Adjustment	\$0
-----------------	--	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
--------------	--

PAYABLE PENALTY	\$5,000
------------------------	---------

Screening Date 4-Jan-2022
Respondent Raitz Enterprises Inc
Case ID No. 61761
Reg. Ent. Reference No. RN111364469
Media Aggregate Production Operation
Enf. Coordinator Cheryl Thompson

Docket No. 2022-0052-WQ-E

PCW

Policy Revision 4 (April 2014)
PCW Revision September 1, 2019

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)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date	4-Jan-2022	Docket No.	2022-0052-WQ-E	PCW
Respondent	Raitz Enterprises Inc	Policy Revision 4 (April 2014) PCW Revision September 1, 2019		
Case ID No.	61761			
Reg. Ent. Reference No.	RN111364469			
Media	Aggregate Production Operation			
Enf. Coordinator	Cheryl Thompson			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 342.25			
Violation Description	Failed to register the Site as an aggregate production operation ("APO") no later than the 10th business day before the beginning date of regulated activities.			
Base Penalty				\$20,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			
				Percent 0.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
				Percent 5.0%
Matrix Notes	100% of the rule requirements were not met.			
Adjustment				\$19,000
				\$1,000
Violation Events				
Number of Violation Events		1	Number of violation days	
		63		
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
Violation Base Penalty		\$1,000		
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 achieved compliance by June 8, 2022 after the Notice of Enforcement dated December 14, 2021.			
Violation Subtotal				\$1,000
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$24	Violation Final Penalty Total	
			\$1,000	
This violation Final Assessed Penalty (adjusted for limits)				\$5,000

Economic Benefit Worksheet

Respondent Raitz Enterprises Inc
Case ID No. 61761
Reg. Ent. Reference No. RN111364469
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	2-Nov-2021	8-Jun-2022	0.60	\$24	n/a	\$24
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated permit cost to register the Site as an APO. The Date Required is the investigation date, 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

\$24



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	20-Dec-2021	Screening	4-Jan-2022	EPA Due	
	PCW	7-Aug-2023				

RESPONDENT/FACILITY INFORMATION

Respondent	Raitz Enterprises Inc
Reg. Ent. Ref. No.	RN111364469
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	61761	No. of Violations	1
Docket No.	2022-0052-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	\$7,500
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
---------------------------	-------------	-------------------	--------------------------------	-----

Notes	No adjustment for Compliance History.
--------------	---------------------------------------

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	-------------	--------------------	-------------------	-----

Notes	The Respondent does not meet the culpability criteria.
--------------	--

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	-------------	---------------------	-------------------	-----

Total EB Amounts	\$264	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,725	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	-------------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount	\$7,500
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,500
-----------------------------------	-------------------------------	---------

DEFERRAL		Reduction	Adjustment	\$0
-----------------	--	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
--------------	--

PAYABLE PENALTY	\$7,500
------------------------	---------

Screening Date	4-Jan-2022	Docket No.	2022-0052-WQ-E	PCW
Respondent	Raitz Enterprises Inc			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61761			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111364469			
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>)	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)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 4-Jan-2022 Respondent Raitz Enterprises Inc Case ID No. 61761 Reg. Ent. Reference No. RN111364469 Media Water Quality Enf. Coordinator Cheryl Thompson Violation Number 1	Docket No. 2022-0052-WQ-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>			
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121, and 40 Code of Federal Regulations § 122.26(c)					
Violation Description Failed to obtain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was performing sand and gravel production activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000 for the associated stormwater discharge.					
Base Penalty		\$25,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential				
				Percent 0.0%	
>> Programmatic Matrix					
OR	Falsification				
	Major	Moderate	Minor		
				Percent 10.0%	
Matrix Notes	100% of the rule requirements were not met.				
Adjustment				\$22,500	
				\$2,500	
Violation Events					
Number of Violation Events		3	63 Number of violation days		
daily weekly monthly quarterly semiannual annual single event		x 	Violation Base Penalty \$7,500		
Three monthly events are recommended from the November 2, 2021 investigation date to the January 4, 2022 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				\$7,500	
Economic Benefit (EB) for this violation					
Estimated EB Amount		\$264	Violation Final Penalty Total \$7,500		
This violation Final Assessed Penalty (adjusted for limits)				\$7,500	

Economic Benefit Worksheet

Respondent Raitz Enterprises Inc
Case ID No. 61761
Reg. Ent. Reference No. RN111364469
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$2,725	2-Nov-2021	11-Oct-2023	1.94	\$264	n/a	\$264
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated permit costs to prepare and submit a Notice of Intent to the Texas Commission on Environmental Quality to obtain authorization to discharge stormwater, and to develop and implement a stormwater pollution prevention plan. Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,725

TOTAL

\$264



Compliance History Report

Compliance History Report for CN605304138, RN111364469, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605304138, Raitz Enterprises Inc

Classification: SATISFACTORY

Rating: 9.37

Regulated Entity: RN111364469, PROCTOR PIT

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 04 - Mining

Location: Located on Farm-to-Market Road 1476, at the intersection of Farm-to-Market Road 1476 & County Road 343, (West side of Farm-to-Market Road 1476) in Proctor, Comanche County, Texas

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

WATER QUALITY NON PERMITTED ID NUMBER
R03111364469

Compliance History Period: September 01, 2016 to August 31, 2021

Rating Year: 2021

Rating Date: 09/01/2021

Date Compliance History Report Prepared: December 22, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 22, 2016 to December 22, 2021

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

Name: Cheryl Thompson

Phone: (817) 588-5865

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.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
RAITZ ENTERPRISES INC;
RN111364469

§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2022-0052-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Raitz Enterprises Inc ("Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent is a responsible party because Respondent is an owner, operator, and/or lessor of an aggregate production operation ("APO") located on Farm-to-Market Road 1476 at the intersection of Farm-to-Market Road 1476 and County Road 343 (West Side of Farm-to-Market Road 1476) in Proctor, Comanche County, Texas (the "Site"). The Site is an APO because aggregates are being or have been removed or extracted from the Site's earth. The terms "responsible party," "owner," "operator," "lessor," "aggregate production operation," and "aggregates" are defined in TEX. WATER CODE § 28A.001. 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 Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$12,500 is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid \$355 of the penalty. The remaining amount of \$12,145 shall be paid in 35 monthly payments of \$347 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 Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, 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 Respondent has not complied with one or more of the terms or conditions contained 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 full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent registered the Site as an APO as of June 8, 2022.

II. ALLEGATIONS

1. During an investigation conducted on and around November 2, 2021, an investigator documented that Respondent:
 - a. Failed to register the Site as an APO no later than the 10th business day before the beginning date of regulated activities, in violation of 30 TEX. ADMIN. CODE § 342.25; and
 - b. Failed to obtain authorization to discharge stormwater associated with industrial activities, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 281.25(a)(4), and 40 C.F.R. § 122.26(c). Specifically, Respondent was performing sand and gravel production activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000 for the associated stormwater discharge.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and 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 actions 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: Raitz Enterprises Inc, Docket No. 2022-0052-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
2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Develop and implement a Stormwater Pollution Prevention Plan to comply with the requirements of TPDES General Permit No. TXR050000; and

- ii. Submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System to obtain authorization to discharge stormwater.
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
- The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833
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 Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
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. Extension requests shall be sent to the Enforcement Division at the address listed above.
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. This Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

December 19, 2024

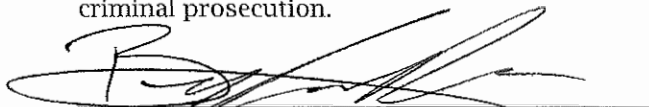
Date

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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Brad Rowe, President
U.S. Sand and Gravel
1111 North Graham Street
Stephenville, Texas 76401

Date

11/5/2024

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