

Executive Summary – Enforcement Matter – Case No. 61969
CS FRANKE DEVELOPMENT LLC
RN111196382
Docket No. 2022-0216-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

C S Franke Development, 15497 County Road 431, Lindale, Smith County

Type of Operation:

Residential construction site

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: December 1, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,750

Amount Deferred for Expedited Settlement: \$4,150

Total Paid to General Revenue: \$16,600

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): December 16, 2021

Complaint Information: Alleged a construction site had failing sediment controls and was discharging sediment into a creek.

Date(s) of Investigation: December 22, 2021 to January 18, 2022

Date(s) of NOE(s): February 18, 2022

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Violation Information

1. Failed to install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. Specifically, sediment controls were not installed at multiple storm drain inlets and silt fences had failed in multiple locations and/or had not been extended to enclose disturbed areas or stockpiled soils [30 TEX. ADMIN. CODE 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1520EO, Part III, Section G.1].
2. Failed to perform inspections of the Site at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inch or greater. Specifically, the inspection report documented a lapse in inspections ranging from 18 days from June 12, 2021 to June 30, 2021, to as much as a month from August 5, 2021 to October 3, 2021 [30 TEX. ADMIN. CODE 305.125(1) and TPDES General Permit No. TXR1520EO, Part III, Section F.7.(c)].
3. Failed to install and maintain best management practices ("BMPs") at the Site which resulted in a discharge of pollutants into or adjacent to any water in the state. Specifically, the unnamed tributary located along the western and southern boundary of the Site and Cooks Creek had received approximately six to twelve inches of sediment deposition for an approximate distance of 0.78 mile [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES General Permit No. TXR1520EO, Part III, Section G.1].
4. Failed to install sedimentation basin(s). Specifically, greater than 50 acres of the Site was disturbed prior to constructing the two sedimentation basins depicted on the stormwater pollution prevent plan site map [30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR1520EO, Part III, Section F.2.(c)(i)(A)(1)].
5. Failed to place velocity dissipation devices at discharge locations and along the length of any outfall channel. Specifically, velocity dissipation devices were not installed at the three stormwater outfalls used to channel stormwater runoff collected from within the Site to the receiving creek [30 TEX. ADMIN. CODE 305.125(1), and TPDES General Permit No. TXR1520EO, Part III, Section F.4.(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:

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Docket No. 2022-0216-WQ-E

- i. Install and begin maintaining sediment controls at all stormwater inlets, repair/replace the failing silt fences, and extend the silt fencing to enclose the disturbed areas and/or stockpiled soils;
 - ii. Update the operational guidance and conduct employee training to ensure inspections of the Site are performed at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inch or greater;
 - iii. Install and begin maintaining BMPs at the Site;
 - iv. Construct the two sedimentation basins depicted on the stormwater pollution prevent plan site map; and
 - v. Install velocity dissipation devices at the three stormwater outfalls used to channel stormwater runoff collected from within the Site to the receiving creek.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Monica Larina, Enforcement Division, Enforcement Team 1, MC R-14, (361) 881-6965; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Chad Franke, Owner/Manager, CS FRANKE DEVELOPMENT LLC, 16074 Farm-to-Market 16 West, Lindale, Texas 75771

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	22-Feb-2022	
	PCW	22-Feb-2022	Screening 22-Feb-2022 EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	CS FRANKE DEVELOPMENT LLC		
Reg. Ent. Ref. No.	RN111196382		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61969	No. of Violations	5
Docket No.	2022-0216-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Monica Larina
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$20,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$3,285	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$23,250	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$20,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,150
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$16,600
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Screening Date

22-Feb-2022

Docket No.

2022-0216-WQ-E

PCW

Respondent

CS FRANKE DEVELOPMENT LLC

Case ID No.

61969

Reg. Ent. Reference No.

RN111196382

Media

Water Quality

Enf. Coordinator

Monica Larina

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

UnclassifiedAdjustment 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		22-Feb-2022	Docket No.		2022-0216-WQ-E	PCW	
Respondent		CS FRANKE DEVELOPMENT LLC				Policy Revision 5 (January 28, 2021)	
Case ID No.		61969				PCW Revision February 11, 2021	
Reg. Ent. Reference No.		RN111196382					
Media		Water Quality					
Enf. Coordinator		Monica Larina					
Violation Number		1					
Rule Cite(s)		30 Tex. Admin. Code 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1520EO, Part III, Section G.1					
Violation Description		Failed to install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. Specifically, sediment controls were not installed at multiple storm drain inlets and silt fences had failed in multiple locations and/or had not been extended to enclose disturbed areas or stockpiled soils.					
Base Penalty						\$25,000	
>> Environmental, Property and Human Health Matrix							
OR	Release		Harm				
		Major	Moderate	Minor			
	Actual						
	Potential		X		Percent	5.0%	
>> Programmatic Matrix							
	Falsification	Major	Moderate	Minor			
					Percent	0.0%	
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.						
Adjustment						\$23,750	
						\$1,250	
Violation Events							
Number of Violation Events		2	62		Number of violation days		
	daily						
	weekly						
	monthly	X					
	quarterly						
	semiannual						
	annual						
	single event						
Violation Base Penalty						\$2,500	
Two monthly events are recommended, calculated from the initial investigation date (December 22, 2021) to the screening date (February 22, 2022).							
Good Faith Efforts to Comply		0.0%	Reduction		\$0		
	Extraordinary		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer				
	Ordinary						
	N/A	X					
Notes	The Respondent does not meet the good faith criteria for this violation.						
Violation Subtotal						\$2,500	
Economic Benefit (EB) for this violation			Statutory Limit Test				
Estimated EB Amount		\$709	Violation Final Penalty Total		\$2,500		
This violation Final Assessed Penalty (adjusted for limits)						\$2,500	

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. CS FRANKE DEVELOPMENT LLC 61969 RN111196382 Water Quality 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	22-Dec-2021	31-Dec-2023	2.02	\$34	\$675	\$709
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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Engineering/Construction cost to install and maintain sediment controls at all stormwater inlets, repair/replace the failing silt fences, and extend the silt fencing to enclose the disturbed areas and/or stockpiled soils. Date required is the initial 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	\$5,000	TOTAL	\$709
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Screening Date	22-Feb-2022	Docket No.	2022-0216-WQ-E	PCW
Respondent	CS FRANKE DEVELOPMENT LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61969			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111196382			
Media	Water Quality			
Enf. Coordinator	Monica Larina			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code 305.125(1) and TPDES General Permit No. TXR1520EO, Part III, Section F.7.(c)			
Violation Description	Failed to perform inspections of the Site at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inch or greater. Specifically, the inspection report documented a lapse in inspections ranging from 18 days from June 12, 2021 to June 30, 2021, to as much as a month from August 5, 2021 to October 3, 2021.			
	Base Penalty	\$25,000		

>> Environmental, Property and Human Health Matrix

OR

	Release	Harm		
		Major	Moderate	Minor
	Actual			
	Potential			X

Percent 3.0%

>>Programmatic Matrix

	Falsification	Major	Moderate	Minor	

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

62

Number of violation days

	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$750

One quarterly event is recommended, calculated from the initial investigation date (December 22, 2021) to the screening date (February 22, 2022).

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$750

This violation Final Assessed Penalty (adjusted for limits) \$750

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. CS FRANKE DEVELOPMENT LLC 61969 RN111196382 Water Quality 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	\$250	22-Dec-2021	31-Dec-2023	2.02	\$25	n/a	\$25
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Training/Sampling cost to update the operational guidance and conduct employee training to ensure inspections of the Site are performed at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inch or greater. Date required is the initial 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	\$250	TOTAL	\$25
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Screening Date	22-Feb-2022	Docket No.	2022-0216-WQ-E	PCW
Respondent	CS FRANKE DEVELOPMENT LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61969			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111196382			
Media	Water Quality			
Enf. Coordinator	Monica Larina			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES General Permit No. TXR1520EO, Part III, Section G.1			
Violation Description	Failed to install and maintain best management practices ("BMPs") at the Site which resulted in a discharge of pollutants into or adjacent to any water in the state. Specifically, the unnamed tributary located along the western and southern boundary of the Site and Cooks Creek had received approximately six to twelve inches of sediment deposition for an approximate distance of 0.78 mile.			
Base Penalty				\$25,000
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major	Moderate	Minor
	Actual		X	
	Potential			
Percent				25.0%
>> 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		2	65	Number of violation days
	daily			
	weekly			
	monthly	X		
	quarterly			
	semiannual			
	annual			
	single event			
Violation Base Penalty				\$12,500
Two monthly events are recommended, calculated from the initial investigation date (December 22, 2021) to the screening date (February 22, 2022).				
Good Faith Efforts to Comply		0.0%	Reduction	
		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				\$12,500
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$709	Violation Final Penalty Total	
			\$12,500	
This violation Final Assessed Penalty (adjusted for limits)				\$12,500

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. CS FRANKE DEVELOPMENT LLC 61969 RN111196382 Water Quality 3

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	\$5,000	22-Dec-2021	31-Dec-2023	2.02	\$34	\$675	\$709
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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Engineering/Construction cost to install and maintain BMPs at the Site. Date required is the initial 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	\$5,000	TOTAL	\$709
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Screening Date	22-Feb-2022	Docket No.	2022-0216-WQ-E	PCW
Respondent	CS FRANKE DEVELOPMENT LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61969			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111196382			
Media	Water Quality			
Enf. Coordinator	Monica Larina			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), and TPDES General Permit No. TXR1520EO, Part III, Section F.2.(c)(i)(A)(1)			
Violation Description	Failed to install sedimentation basin(s). Specifically, greater than 50 acres of the Site was disturbed prior to constructing the two sedimentation basins depicted on the stormwater pollution prevent plan site map.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR

		Release	Major	Moderate	Minor	
		Actual				
		Potential		X		

Percent 5.0%

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

65

Number of violation days

	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Two monthly events are recommended, calculated from the initial investigation date (December 22, 2021) to the screening date (February 22, 2022).

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,417

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. CS FRANKE DEVELOPMENT LLC 61969 RN111196382 Water Quality 4

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	\$10,000	22-Dec-2021	31-Dec-2023	2.02	\$67	\$1,350	\$1,417
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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Engineering/Construction cost to construct the two sedimentation basins depicted on the stormwater pollution prevent plan site map. Date required is the initial 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	\$10,000	TOTAL	\$1,417
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Screening Date 22-Feb-2022		Docket No. 2022-0216-WQ-E		PCW	
Respondent CS FRANKE DEVELOPMENT LLC		<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No. 61969		<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No. RN111196382					
Media Water Quality					
Enf. Coordinator Monica Larina					
Violation Number 5					
Rule Cite(s) 30 Tex. Admin. Code 305.125(1), and TPDES General Permit No. TXR1500EO, Part III, Section F.4.(d)					
Violation Description		Failed to place velocity dissipation devices at discharge locations and along the length of any outfall channel. Specifically, velocity dissipation devices were not installed at the three stormwater outfalls used to channel stormwater runoff collected from within the Site to the receiving creek.			
		Base Penalty		\$25,000	

>> Environmental, Property and Human Health Matrix

OR

	Release	Harm			
		Major	Moderate	Minor	
	Actual				Percent 5.0%
	Potential		X		

>>Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

\$23,750

\$1,250

Violation Events

Number of Violation Events		2	65		Number of violation days
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	daily		Violation Base Penalty	\$2,500
	weekly			
	monthly	X		
	quarterly			
	semiannual			
	annual			
	single event			

Two monthly events are recommended, calculated from the initial investigation date (December 22, 2021) to the screening date (February 22, 2022).

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

\$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount	\$425	Violation Final Penalty Total	\$2,500
This violation Final Assessed Penalty (adjusted for limits)		\$2,500	

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. CS FRANKE DEVELOPMENT LLC 61969 RN111196382 Water Quality 5

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	\$3,000	22-Dec-2021	31-Dec-2023	2.02	\$20	\$405	\$425
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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Engineering/Construction cost to install velocity dissipation devices at the three stormwater outfalls used to channel stormwater runoff collected from within the Site to the receiving creek. Date required is the initial 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	\$3,000	TOTAL	\$425
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Compliance History Report

Compliance History Report for CN605860378, RN111196382, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN605860378, CS Franke Development LLC	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN111196382, C S FRANKE DEVELOPMENT	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	5	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	15497 COUNTY ROAD 431 LINDALE, TX 75771-7719, SMITH COUNTY		
TCEQ Region:	REGION 05 - TYLER		
ID Number(s):			
STORMWATER PERMIT TXR1520EO			
Compliance History Period:	September 01, 2017 to August 31, 2022	Rating Year: 2022	Rating Date: 09/01/2022
Date Compliance History Report Prepared:	June 06, 2023		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	June 06, 2018 to June 06, 2023		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Monica Larina	Phone:	(512) 239-0184

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
CS FRANKE DEVELOPMENT LLC
RN111196382**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2022-0216-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 CS FRANKE DEVELOPMENT LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, together stipulate that:

1. The Respondent owns and operates a residential construction site located at 15497 County Road 431 in Lindale, Smith County, Texas (the "Site"). 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 ch. 26 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 \$20,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$16,600 of the penalty and \$4,150 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.

II. ALLEGATIONS

During an investigation conducted on December 22, 2021 to January 18, 2022, an investigator documented that the Respondent:

1. Failed to install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants, in violation of 30 TEX. ADMIN. CODE 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1520EO, Part III, Section G.1. Specifically, sediment controls were not installed at multiple storm drain inlets and silt fences had failed in multiple locations and/or had not been extended to enclose disturbed areas or stockpiled soils.
2. Failed to perform inspections of the Site at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inch or greater, in violation of 30 TEX. ADMIN. CODE 305.125(1) and TPDES General Permit No. TXR1520EO, Part III, Section F.7.(c). Specifically, the inspection report documented a lapse in inspections ranging from 18 days from June 12, 2021 to June 30, 2021, to as much as a month from August 5, 2021 to October 3, 2021.
3. Failed to install and maintain best management practices ("BMPs") at the Site which resulted in a discharge of pollutants into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES General Permit No. TXR1520EO, Part III, Section G.1. Specifically, the unnamed tributary located along the western and southern boundary of the Site and Cooks Creek had received approximately six to twelve inches of sediment deposition for an approximate distance of 0.78 mile.
4. Failed to install sedimentation basin(s), in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR1520EO, Part III, Section F.2.(c)(i)(A)(1). Specifically, greater than 50 acres of the Site was disturbed prior to constructing the two sedimentation basins depicted on the stormwater pollution prevent plan site map.

5. Failed to place velocity dissipation devices at discharge locations and along the length of any outfall channel, in violation of 30 TEX. ADMIN. CODE 305.125(1), and TPDES General Permit No. TXR1520EO, Part III, Section F.4.(d). Specifically, velocity dissipation devices were not installed at the three stormwater outfalls used to channel stormwater runoff collected from within the Site to the receiving creek.

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: CS FRANKE DEVELOPMENT LLC, Docket No. 2022-0216-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Install and begin maintaining sediment controls at all stormwater inlets, repair/replace the failing silt fences, and extend the silt fencing to enclose the disturbed areas and/or stockpiled soils;
 - ii. Update the operational guidance and conduct employee training to ensure inspections of the Site are performed at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inch or greater;
 - iii. Install and begin maintaining BMPs at the Site;
 - iv. Construct the two sedimentation basins depicted on the stormwater pollution prevent plan site map; and
 - v. Install velocity dissipation devices at the three stormwater outfalls used to channel stormwater runoff collected from within the Site to the receiving creek.

- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.v. 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:

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

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of

what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

12/22/2023

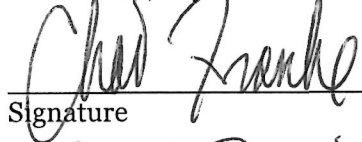
Date

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

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the 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.



Signature

Chad Franke

Name (Printed or typed)
Authorized Representative of
CS FRANKE DEVELOPMENT LLC

Oct 3. 2023

Date

Owner / manager.

Title

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