

Executive Summary – Enforcement Matter – Case No. 62087
Prihoda Gravel Company, LLC
RN108757519
Docket No. 2022-0316-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Altair TX Tait Ranch, located two miles north of Altair on Highway 71, Altair, Colorado County

Type of Operation:

Aggregate production operation (“APO”)

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 28, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,875

Amount Deferred for Expedited Settlement: \$2,975

Total Paid to General Revenue: \$11,900

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: \$6,895

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 13, 2022

Date(s) of NOE(s): February 24, 2022

Executive Summary – Enforcement Matter – Case No. 62087
Prihoda Gravel Company, LLC
RN108757519
Docket No. 2022-0316-WQ-E

Violation Information

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0001556 expired on September 1, 2017, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].
2. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05CN58 expired on August 14, 2021, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By December 18, 2018, obtained APO Registration No. AP0002884; and
- b. By January 13, 2022, submitted a Notice of Intent to obtain authorization to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05FM78, and prepared and implemented a stormwater pollution prevention plan.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Kolby Farren, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2098; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Anthony Prihoda, Owner, Prihoda Gravel Company, LLC, P.O. Box 435, Altair, Texas 77412

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | |
|--------------|-----------------|-------------|------------------|-------------|
| DATES | Assigned | 28-Feb-2022 | | |
| | PCW | 2-Apr-2024 | Screening | 10-Mar-2022 |
| | | | EPA Due | |

| | | | | |
|--|--|---------------------------|-------|--|
| RESPONDENT/FACILITY INFORMATION | | | | |
| Respondent | Prihoda Gravel Company, LLC PCW No. 1 of 2 | | | |
| Reg. Ent. Ref. No. | RN108757519 | | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor | |

| | | | | |
|--------------------------|----------------------|------------------------------|--------------------|----------|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 62087 | No. of Violations | 1 | |
| Docket No. | 2022-0316-WQ-E | Order Type | 1660 | |
| Media Program(s) | Water Quality | Government/Non-Profit | No | |
| Multi-Media | | Enf. Coordinator | Kolby Farren | |
| | | 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 | -10.0% | Adjustment | Subtotals 2, 3, & 7 | -\$750 |
|---------------------------|--------|------------|--------------------------------|--------|

| | | | | |
|--------------|--|--|--|--|
| Notes | Reduction for High Performer Classification. | | | |
|--------------|--|--|--|--|

| | | | | | |
|--------------------|----|------|-------------|-------------------|-----|
| 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 | -\$1,875 |
|--|-------------------|----------|

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

| | | |
|------------------------------|---------|-----------------------------------|
| Total EB Amounts | \$10 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$1,225 | |

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$4,875 |
|-----------------------------|-----------------------|---------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|-----------------------------|---------|
| Notes | |
| Final Penalty Amount | \$4,875 |

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$4,875 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|-------|-----------|------------|--------|
| DEFERRAL | 20.0% | Reduction | Adjustment | -\$975 |
|-----------------|-------|-----------|------------|--------|

Reduces the Final Assessed Penalty by the indicated percentage.

| | |
|--------------|--|
| Notes | Deferral offered for expedited settlement. |
|--------------|--|

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$3,900 |
|------------------------|---------|

Screening Date

10-Mar-2022

Docket No.

2022-0316-WQ-E

PCW

Respondent

Prihoda Gravel Company, LLC

Case ID No.

62087

Reg. Ent. Reference No.

RN108757519

Media

Water Quality

Enf. Coordinator

Kolby Farren

PCW No. 1 of 2

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)

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 10-Mar-2022 | | Docket No. 2022-0316-WQ-E | | PCW | |
| Respondent Prihoda Gravel Company, LLC PCW No. 1 of 2 | | <i>Policy Revision 5 (January 28, 2021)</i> | | | |
| Case ID No. 62087 | | <i>PCW Revision February 11, 2021</i> | | | |
| Reg. Ent. Reference No. RN108757519 | | | | | |
| Media Water Quality | | | | | |
| Enf. Coordinator Kolby Farren | | | | | |
| Violation Number | | 1 | | | |
| Rule Cite(s) | | 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c) | | | |
| Violation Description | | Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR05CN58 expired on August 14, 2021, and the Respondent continued to operate. | | | |
| | | | | Base Penalty | \$25,000 |
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | Release | | Harm | | |
| | Major | Moderate | Minor | | |
| | Actual | | | | |
| | Potential | | | | Percent 0.0% |
| >> Programmatic Matrix | | | | | |
| | Falsification | Major | Moderate | Minor | |
| | | x | | | 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 | 62 | Number of violation days | |
| | daily | | | | |
| | weekly | | | | |
| | monthly | x | | | |
| | quarterly | | | | |
| | semiannual | | | | |
| | annual | | | | |
| | single event | | | | |
| | | | | Violation Base Penalty | \$7,500 |
| Three monthly events are recommended from the permit application grace period end date (November 12, 2021) to the compliance date (January 13, 2022). | | | | | |
| Good Faith Efforts to Comply | | 25.0% | Reduction | | \$1,875 |
| | Extraordinary | | Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer | | |
| | Ordinary | x | | | |
| | N/A | | | | |
| | Notes | The Respondent achieved compliance on January 13, 2022. | | | |
| | | | | Violation Subtotal | \$5,625 |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | | \$10 | Violation Final Penalty Total | | \$4,875 |
| This violation Final Assessed Penalty (adjusted for limits) | | | | \$4,875 | |

Economic Benefit Worksheet

Respondent Case ID No. Prihoda Gravel Company, LLC PCW No. 1 of 2
Reg. Ent. Reference No. 62087
Media RN108757519
Violation No. 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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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) | \$1,225 | 12-Nov-2021 | 13-Jan-2022 | 0.17 | \$10 | n/a | \$10 |
| Notes for DELAYED costs | Estimated Other cost to submit a Notice of Intent to obtain authorization to discharge stormwater, and prepare and implement a Stormwater Pollution Prevention Plan. The Date Required is the end of the permit renewal grace period 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 | \$1,225 | TOTAL | \$10 |
|----------------------------|---------|-------|------|



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 28-Feb-2022 | | | |
| | PCW | 2-Apr-2024 | Screening | 10-Mar-2022 | EPA Due |

| | | | | | |
|--|--|---------------------------|-------|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | |
| Respondent | Prihoda Gravel Company, LLC PCW No. 2 of 2 | | | | |
| Reg. Ent. Ref. No. | RN108757519 | | | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor | | |

| | | | | | |
|--------------------------|--------------------------------|------------------------------|--------------------|----------|--------------------------|
| CASE INFORMATION | | | | | |
| Enf./Case ID No. | 62087 | No. of Violations | 1 | | |
| Docket No. | 2022-0316-WQ-E | Order Type | 1660 | | |
| Media Program(s) | Aggregate Production Operation | Government/Non-Profit | No | | |
| Multi-Media | | Enf. Coordinator | Kolby Farren | | |
| | | EC's Team | Enforcement Team 1 | | |
| Admin. Penalty \$ | Limit Minimum | \$5,000 | Maximum | \$20,000 | Violation Maximum |
| | | | | | \$40,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$4,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | | |
|---------------------------|--------|------------|--------------------------------|--------|
| Compliance History | -10.0% | Adjustment | Subtotals 2, 3, & 7 | -\$400 |
|---------------------------|--------|------------|--------------------------------|--------|

| | | | | |
|--------------|--|--|--|--|
| Notes | Reduction for High Performer Classification. | | | |
|--------------|--|--|--|--|

| | | | | | |
|--------------------|----|------|-------------|-------------------|-----|
| 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 | -\$1,000 |
|--|-------------------|----------|

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

| | | |
|------------------------------|-------|-----------------------------------|
| Total EB Amounts | \$512 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$948 | |

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,600 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|-------|------------|-------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 19.4% | Adjustment | \$505 |
|---|-------|------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|-----------------------------|--|
| Notes | Recommended enhancement to capture the avoided cost of compliance associated with the violation. |
| Final Penalty Amount | |
| \$3,105 | |

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$10,000 |
|-----------------------------------|-------------------------------|----------|

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

| | | | | |
|-----------------|-------|-----------|------------|----------|
| DEFERRAL | 20.0% | Reduction | Adjustment | -\$2,000 |
|-----------------|-------|-----------|------------|----------|

Reduces the Final Assessed Penalty by the indicated percentage.

| | | | |
|--------------|--|--|--|
| Notes | Deferral offered for expedited settlement. | | |
|--------------|--|--|--|

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$8,000 |
|------------------------|---------|

Screening Date 10-Mar-2022

Docket No. 2022-0316-WQ-E

PCW

Respondent Prihoda Gravel Company, LLC PCW No. 2 of 2

Policy Revision 5 (January 28, 2021)

Case ID No. 62087

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN108757519

Media Aggregate Production Operation

Enf. Coordinator Kolby Farren

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 | 10-Mar-2022 | Docket No. | 2022-0316-WQ-E | PCW | |
| Respondent | Prihoda Gravel Company, LLC PCW No. 2 of 2 | | | <i>Policy Revision 5 (January 28, 2021)</i> | |
| Case ID No. | 62087 | <i>PCW Revision February 11, 2021</i> | | | |
| Reg. Ent. Reference No. | RN108757519 | | | | |
| Media | Aggregate Production Operation | | | | |
| Enf. Coordinator | Kolby Farren | | | | |
| Violation Number | 1 | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 342.25(d) | | | | |
| Violation Description | Failed to renew the Aggregate Production Operation ("APO") registration annually as regulated activities continued. Specifically, APO Registration No. AP0001556 expired on September 1, 2017 and the Respondent continued to operate. | | | | |
| Base Penalty | | | | \$20,000 | |
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | Release | Harm | | | |
| | | Major | Moderate | Minor | |
| | Actual | | | | Percent 0.0% |
| | Potential | | | | |
| >> Programmatic Matrix | | | | | |
| | Falsification | Major | Moderate | Minor | |
| | | x | | | Percent 10.0% |
| Matrix Notes | 100% of the rule requirement was not met. | | | | |
| Adjustment | | | | \$18,000 | |
| | | | | | \$2,000 |
| Violation Events | | | | | |
| Number of Violation Events | | 2 | 473 | Number of violation days | |
| | daily | | | Violation Base Penalty \$4,000 | |
| | weekly | | | | |
| | monthly | | | | |
| | quarterly | | | | |
| | semiannual | | | | |
| | annual | | | | |
| | single event | x | | | |
| Two single events are recommended, one for each missed registration. | | | | | |
| Good Faith Efforts to Comply | | 25.0% | Reduction | | \$1,000 |
| | Before NOE/NOV | | NOE/NOV to EDPRP/Settlement Offer | | |
| | Extraordinary | | | | |
| | Ordinary | X | | | |
| | N/A | | | | |
| | Notes | The Respondent achieved compliance by December 18, 2018 | | | |
| Violation Subtotal | | | | \$3,000 | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | | \$512 | Violation Final Penalty Total | | \$3,105 |
| This violation Final Assessed Penalty (adjusted for limits) | | | | \$10,000 | |

Economic Benefit Worksheet

Respondent Prihoda Gravel Company, LLC PCW No. 2 of 2
Case ID No. 62087
Reg. Ent. Reference No. RN108757519
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 | \$474 | 1-Sep-2018 | 18-Dec-2018 | 0.30 | \$7 | n/a | \$7 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |
| Notes for DELAYED costs | Estimated Permit Costs to register the Site as an APO. The Date Required is the most recent registration renewal due 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 | \$474 | 1-Sep-2017 | 18-Dec-2018 | 1.30 | \$31 | \$474 | \$505 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Notes for AVOIDED costs | Estimated avoided cost to renew the APO registration and assoicated interest. The Date Required is the date the initial registration renewal was due, and the Final Date is the date of compliance. | | | | | | |

| | | | |
|----------------------------|-------|-------|-------|
| Approx. Cost of Compliance | \$948 | TOTAL | \$512 |
|----------------------------|-------|-------|-------|

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 CN604925313, RN108757519, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

| | | | |
|---|---|-----------------------------|--------------------------------|
| Customer, Respondent, or Owner/Operator: | CN604925313, Prihoda Gravel Company, LLC | Classification: HIGH | Rating: 0.00 |
| Regulated Entity: | RN108757519, ALTAIR TX TAIT RANCH | Classification: HIGH | Rating: 0.00 |
| Complexity Points: | 5 | Repeat Violator: NO | |
| CH Group: | 04 - Mining | | |
| Location: | Two miles north of Altair on Highway 71, Colorado County, Texas | | |
| TCEQ Region: | REGION 12 - HOUSTON | | |
| ID Number(s): | | | |
| STORMWATER PERMIT | TXR05FM78 | | |
| Compliance History Period: | September 01, 2018 to August 31, 2023 | Rating Year: 2023 | Rating Date: 09/01/2023 |
| Date Compliance History Report Prepared: | April 02, 2024 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Component Period Selected: | April 02, 2019 to April 02, 2024 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History. | | | |
| Name: | Kolby Farren | | Phone: (512) 239-2098 |

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

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 | June 13, 2019 | (1557750) |
| Item 2 | October 23, 2023 | (1925625) |

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
PRIHODA GRAVEL COMPANY, LLC
RN108757519

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2022-0316-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 Prihoda Gravel Company, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is an operator, as defined in TEX. WATER CODE § 28A.001(4), of an aggregate production operation ("APO") located two miles north of Altair on Highway 71 in Colorado County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26 and 28A and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$14,875 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$11,900 of the penalty and \$2,975 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 the Respondent implemented the following corrective measures at the Site:
 - a. By December 18, 2018, obtained APO Registration No. AP0002884; and
 - b. By January 13, 2022, submitted a Notice of Intent to obtain authorization to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05FM78, and prepared and implemented a stormwater pollution prevention plan.

II. ALLEGATIONS

During an investigation at the Site conducted on January 13, 2022, an investigator documented that the Respondent:

1. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d). Specifically, APO Registration No. AP0001556 expired on September 1, 2017, and the Respondent continued to operate.
2. Failed to maintain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under TPDES MSGP No. TXR05CN58 expired on August 14, 2021, and the Respondent continued to operate.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall

not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Prihoda Gravel Company, LLC, Docket No. 2022-0316-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
4. 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.
5. 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.
6. 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.
7. 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

7/8/2024

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, 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.



Signature

5/31/24

Date

Anthony Prihoda

Name (Printed or typed)

Authorized Representative of
Prihoda Gravel Company, LLC

OWNER

Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.