

**Executive Summary – Enforcement Matter – Case No. 62125**  
**Higbie Ventures of Texas, Inc.**  
**RN111214474**  
**Docket No. 2022-0340-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

No

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

Laurel Springs RV Park, 1355 Laurel Springs Lane, Kingwood, Harris County

**Type of Operation:**

Construction site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 8, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,988

**Amount Deferred for Expedited Settlement:** \$1,597

**Total Paid to General Revenue:** \$6,391

**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):** January 29, 2022

**Complaint Information:** Alleged violations with the Respondent's Construction General Permit.

**Date(s) of Investigation:** February 2, 2022

**Date(s) of NOE(s):** March 17, 2022

**Executive Summary – Enforcement Matter – Case No. 62125**  
**Higbie Ventures of Texas, Inc.**  
**RN111214474**  
**Docket No. 2022-0340-WQ-E**

***Violation Information***

1. Failed to maintain best management practices ("BMPs") in effective operating condition. Specifically, erosion controls in the stormwater inlets north of the detention pond were not repaired or replaced [30 TEX. ADMIN. CODE 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1554ET, Part III, Section F.6(a)(c)].
2. Failed to install minimum controls such as silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries at the Site. Specifically, erosion controls along the western perimeter were not installed as prescribed by the Storm Water Pollution Prevention Plan ("SWP3") [30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR1554ET, Part III, Section F.2.(c)i.(B)].
3. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, sediment discharged and accumulated approximately 158 yards off-site, into a forested area [30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR1554ET, Part III, Section F.6.(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. Began maintaining BMPs in effective operating condition, including erosion controls in the stormwater inlets north of the detention pond at the Site by March 7, 2022;
- b. Installed minimum controls such as silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries, including erosion controls along the western perimeter of the Site by March 28, 2022; and
- c. Developed and implemented procedures to ensure the accumulation of sediment that escapes the Site is removed at a frequency that minimizes off-site impacts, and prior to the next rain event by March 29, 2022.

**Technical Requirements:**

N/A

**Executive Summary – Enforcement Matter – Case No. 62125  
Higbie Ventures of Texas, Inc.  
RN111214474  
Docket No. 2022-0340-WQ-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Monica Larina, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-0184; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** William Higbie, President, Higbie Ventures of Texas, Inc., 2425 Kipling Street, Houston, Texas 77098

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	21-Mar-2022			
	<b>PCW</b>	24-Mar-2022	<b>Screening</b>	21-Mar-2022	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Higbie Ventures of Texas, Inc.
<b>Reg. Ent. Ref. No.</b>	RN111214474
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	62125	<b>No. of Violations</b>	3
<b>Docket No.</b>	2022-0340-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Monica Larina
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$9,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for Compliance History.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$1,012
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$180
Estimated Cost of Compliance	\$23,226

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,988
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$7,988
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,988
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,597
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,391
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**Screening Date** 21-Mar-2022

**Docket No.** 2022-0340-WQ-E

**PCW**

**Respondent** Higbie Ventures of Texas, Inc.

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 62125

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN111214474

**Media** Water Quality

**Enf. Coordinator** Monica Larina

### 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)

Unclassified

**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 21-Mar-2022

Docket No. 2022-0340-WQ-E

PCW

Respondent Higbie Ventures of Texas, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 62125

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111214474

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. TXR1554ET, Part III, Section F.6(a)(c)

Violation Description Failed to maintain best management practices ("BMPs") in effective operating condition. Specifically, erosion controls in the stormwater inlets north of the detention pond were not repaired or replaced.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

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

33 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 investigation date (February 2, 2022) to the compliance date (March 7, 2022).

Good Faith Efforts to Comply

25.0%

Reduction \$187

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

Notes The Respondent achieved compliance by March 7, 2022.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$563

This violation Final Assessed Penalty (adjusted for limits) \$563

# Economic Benefit Worksheet

**Respondent** Higbie Ventures of Texas, Inc.  
**Case ID No.** 62125  
**Reg. Ent. Reference No.** RN111214474  
**Media 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
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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	\$858	2-Feb-2022	7-Mar-2022	0.09	\$0	\$5	\$5
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 delayed Engineering/Construction cost to maintain BMPs in effective operating condition, including erosion controls in the stormwater inlets north of the detention pond at the Site. 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 \$858

**TOTAL** \$5

**Screening Date** 21-Mar-2022 **Docket No.** 2022-0340-WQ-E **PCW**  
**Respondent** Higbie Ventures of Texas, Inc. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62125 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111214474  
**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. TXR1554ET, Part III, Section F.2.(c).i.(B)  
**Violation Description** Failed to install minimum controls such as silt fences, vegetative buffer strips, or equivalent sediment controls for all down-slope boundaries at the Site. Specifically, erosion controls along the western perimeter were not installed as prescribed by the Storm Water Pollution Prevention Plan ("SWP3").

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				3.0%
	Potential			X	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%
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      47      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 investigation date (February 2, 2022) to the screening date (March 21, 2022).

**Good Faith Efforts to Comply** 10.0% Reduction \$75

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		
Notes	The Respondent achieved compliance by March 28, 2022.	

**Violation Subtotal** \$675

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$24	Violation Final Penalty Total \$675
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$675	



# Economic Benefit Worksheet

**Respondent** Higbie Ventures of Texas, Inc.  
**Case ID No.** 62125  
**Reg. Ent. Reference No.** RN111214474  
**Media Violation No.** 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	\$2,368	2-Feb-2022	28-Mar-2022	0.15	\$1	\$23	\$24
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 delayed Engineering/Construction cost to install minimum controls such as silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries, including erosion controls along the western perimeter of the Site, as prescribed by the SWP3. 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 \$2,368

**TOTAL** \$24

<b>Screening Date</b>	21-Mar-2022	<b>Docket No.</b>	2022-0340-WQ-E	<b>PCW</b>
<b>Respondent</b>	Higbie Ventures of Texas, Inc.	<i>Policy Revision 5 (January 28, 2021)</i>		
<b>Case ID No.</b>	62125	<i>PCW Revision February 11, 2021</i>		
<b>Reg. Ent. Reference No.</b>	RN111214474			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Monica Larina			
<b>Violation Number</b>	3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), and TPDES General Permit No. TXR1554ET, Part III, Section F.6.(d)			
<b>Violation Description</b>	Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, sediment discharged and accumulated approximately 158 yards off-site, into a forested area.			
<b>Base Penalty</b>	\$25,000			

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual			X	<b>Percent</b> 15.0%
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0.0%
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events	2	47	Number of violation days
	daily		
	weekly		
	monthly	X	
	quarterly		
	semiannual		
	annual		
	single event		
<b>Violation Base Penalty</b> \$7,500			
Two monthly events are recommended, calculated from the investigation date (February 2, 2022) to the screening date (March 21, 2022).			

**Good Faith Efforts to Comply** 10.0% Reduction \$750

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		
<b>Notes</b>	The Respondent achieved compliance by March 29, 2022.	
<b>Violation Subtotal</b> \$6,750		

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> \$151	<b>Violation Final Penalty Total</b> \$6,750
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$6,750	

## Economic Benefit Worksheet

**Respondent** Higbie Ventures of Texas, Inc.  
**Case ID No.** 62125  
**Reg. Ent. Reference No.** RN111214474  
**Media Violation No.** 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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	\$20,000	2-Feb-2022	29-Mar-2022	0.15	\$151	n/a	\$151
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed Training/Sampling cost to develop and implement procedures to ensure the accumulation of sediment that escapes the Site is removed at a frequency that minimizes off-site impacts, and prior to the next rain event, if feasible. 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 \$20,000

**TOTAL** \$151

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 CN604330290, RN111214474, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN604330290, Higbie Ventures of Texas, Inc. **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN111214474, LAUREL SPRINGS RV PARK **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 3 **Repeat Violator:** NO

**CH Group:** 09 - Construction

**Location:** 1355 Laurel Springs Lane, Harris County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
STORMWATER PERMIT TXR1554ET

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

**Date Compliance History Report Prepared:** March 21, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 21, 2017 to March 21, 2022

**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  
HIGBIE VENTURES OF TEXAS, INC.  
RN111214474

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2022-0340-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 Higbie Ventures of Texas, Inc. (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 construction site located at 1355 Laurel Springs Lane in Kingwood in Harris 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 \$7,988 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,391 of the penalty and \$1,597 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. Began maintaining best management practices ("BMPs") in effective operating condition, including erosion controls in the stormwater inlets north of the detention pond at the Site by March 7, 2022.
  - b. Installed minimum controls such as silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries, including erosion controls along the western perimeter of the Site by March 28, 2022.
  - c. Developed and implemented procedures to ensure the accumulation of sediment that escapes the Site is removed at a frequency that minimizes off-site impacts, and prior to the next rain event by March 29, 2022.

## II. ALLEGATIONS

During an investigation conducted on February 2, 2022, an investigator documented that the Respondent:

1. Failed to maintain BMPs in effective operating condition, in violation of 30 TEX. ADMIN. CODE 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1554ET, Part III, Section F.6(a)(c). Specifically, erosion controls in the stormwater inlets north of the detention pond were not repaired or replaced.
2. Failed to install minimum controls such as silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries at the Site, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR1554ET, Part III, Section F.2.(c)i.(B). Specifically, erosion controls along the western perimeter were not installed as prescribed by the Storm Water Pollution Prevention Plan ("SWP3").
3. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR1554ET, Part III, Section F.6.(d). Specifically, sediment discharged and accumulated approximately 158 yards off-site, into a forested area.

### 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: Higbie Ventures of Texas, Inc., Docket No. 2022-0340-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

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For the Commission

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Date

  
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For the Executive Director


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9/26/2023  
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Date

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

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

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

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

  
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Signature

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AUGUST 8, 2023  
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Date

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WILLIAM HIGBIE  
-----  
Name (Printed or typed)  
Authorized Representative of  
Higbie Ventures of Texas, Inc.

-----  
President  
-----  
Title

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