

Executive Summary – Enforcement Matter – Case No. 62158

Post Granada, LP

RN103769592

Docket No. 2022-0390-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Granada Apartments, 834 South Getty Street, Uvalde, Uvalde County

Type of Operation:

Privately owned lift station

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: February 2, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$33,602

Amount Deferred for Expedited Settlement: \$6,720

Total Paid to General Revenue: \$772

Total Due to General Revenue: \$26,110

Payment Plan: 35 payments of \$746 each

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): May 23, 2021

Complaint Information: Alleged the overflowing lift station and inactivity from the apartment management.

Date(s) of Investigation: November 18, 2021

Date(s) of NOE(s): February 23, 2022

Executive Summary – Enforcement Matter – Case No. 62158

Post Granada, LP

RN103769592

Docket No. 2022-0390-WQ-E

Violation Information

1. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, on April 13, 2021, a sanitary sewer overflow ("SSO") of sewage was documented coming from the Respondent's lift station located at 834 South Getty Street, onto the ground, and into the Leona River [TEX. WATER CODE § 26.121(a)(1)].
2. Failed to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge. Specifically, the Respondent was aware of the SSO on April 13, 2021, but failed to notify the TCEQ within 24 hours of the occurrence [30 TEX. ADMIN. CODE § 327.32(b) and TEX. WATER CODE § 26.039(b)].
3. Failed to provide an audiovisual alarm system for the lift station. Specifically, the audiovisual alarm system at the Site was non-functional [30 TEX. ADMIN. CODE § 317.3(e)(5)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Develop and implement procedures and conduct employee training to remove and properly dispose of discharged wastewater/sewage, to remediate the affected areas, and to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge; and
 - ii. Repair or replace the audiovisual alarm system at the lift station.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Executive Summary – Enforcement Matter – Case No. 62158

Post Granada, LP

RN103769592

Docket No. 2022-0390-WQ-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harley Hobson, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1337; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Jason Post, Manager, Post Granada, LP, 8149 Santa Monica Boulevard, Suite 298, Los Angeles, California 90046

John Jeter, Vice President, Post Granada, LP, 8149 Santa Monica Boulevard, Suite 298, Los Angeles, California 90046

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-Mar-2022			
	PCW	1-Apr-2022	Screening	1-Apr-2022	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Post Granada, LP				
Reg. Ent. Ref. No.	RN103769592				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	62158	No. of Violations	3
Docket No.	2022-0390-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harley Hobson
		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	\$30,000
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0%	Adjustment	Subtotals 2, 3, & 7	\$1,500
---------------------------	-------------	-------------------	--------------------------------	---------

Notes	Enhancement for one NOV with the same/similar violations.			
--------------	---	--	--	--

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

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

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

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

Total EB Amounts	\$2,231
Estimated Cost of Compliance	\$3,255

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$31,500
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	6.7%	Adjustment	\$2,102
---	-------------	-------------------	---------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violations Nos. 1 and 2.			
Final Penalty Amount				\$33,602

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$33,602
-----------------------------------	-------------------------------	----------

DEFERRAL	20.0%	Reduction	Adjustment	-\$6,720
-----------------	--------------	------------------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

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

PAYABLE PENALTY	\$26,882
------------------------	----------

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>)	1	5%	
	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)			5%	
>> Repeat Violator (Subtotal 3)				
N/A		Adjustment Percentage (Subtotal 3)		0%
>> Compliance History Person Classification (Subtotal 7)				
N/A		Adjustment Percentage (Subtotal 7)		0%
>> Compliance History Summary				
Compliance History Notes	Enhancement for one NOV with the same/similar violations.			
Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)			5%	
>> Final Compliance History Adjustment				
Final Adjustment Percentage *capped at 100%			5%	

Screening Date	1-Apr-2022	Docket No.	2022-0390-WQ-E	PCW		
Respondent	Post Granada, LP			<i>Policy Revision 5 (January 28, 2021)</i>		
Case ID No.	62158			<i>PCW Revision February 11, 2021</i>		
Reg. Ent. Reference No.	RN103769592					
Media	Water Quality					
Enf. Coordinator	Harley Hobson					
Violation Number	1					
Rule Cite(s)	Tex. Water Code § 26.121(a)(1)					
Violation Description	Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, on April 13, 2021, a sanitary sewer overflow ("SSO") of sewage was documented coming from the Respondent's lift station located at 834 South Getty Street, onto the ground, and into the Leona River.					
		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 as a result of the violation.				
		Adjustment	\$18,750			
						\$6,250
Violation Events						
		Number of Violation Events	4	353	Number of violation days	
		daily				
		weekly				
		monthly				
		quarterly	X			
		semiannual				
		annual				
		single event				
		Four quarterly events are recommended from date the violation was initially documented (April 13, 2021) to the screening date (April 1, 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	\$25,000			
Economic Benefit (EB) for this violation						
Statutory Limit Test						
	Estimated EB Amount	\$2,117		Violation Final Penalty Total	\$28,002	
	This violation Final Assessed Penalty (adjusted for limits)			\$28,002		

Economic Benefit Worksheet

Respondent Post Granada, LP
Case ID No. 62158
Reg. Ent. Reference No. RN103769592
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	13-Apr-2021	4-Nov-2022	1.56	\$20	n/a	\$20
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 cost to develop and implement procedures and conduct employee training to remove and properly dispose of discharged wastewater/sewage, to remediate the affected areas, and to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge. The Date Required is the date the violation was initially documented. 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	\$2,000	13-Apr-2021	1-Apr-2022	0.97	\$97	\$2,000	\$2,097
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to remove and properly dispose of the sewage from the ground and Leona River and remediate the area. The Date Required is the date the violation was initially documented. The Final Date is the screening date.

Approx. Cost of Compliance \$2,250

TOTAL \$2,117

Screening Date		1-Apr-2022		Docket No.		2022-0390-WQ-E		PCW	
Respondent		Post Granada, LP							
Case ID No.		62158							
Reg. Ent. Reference No.		RN103769592							
Media		Water Quality							
Enf. Coordinator		Harley Hobson							
Violation Number		2							
Rule Cite(s)		30 Tex. Admin. Code § 327.32(b) and Tex. Water Code § 26.039(b)							
Violation Description		Failed to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge. Specifically, the Respondent was aware of the SSO on April 13, 2021, but failed to notify the TCEQ within 24 hours of the occurrence.							
		Base Penalty		\$25,000					
>> Environmental, Property and Human Health Matrix									
OR	Release		Major		Moderate		Minor		
	Actual								Percent
	Potential								0.0%
>> Programmatic Matrix									
		Falsification		Major		Moderate		Minor	
				X					
Matrix Notes		100% of the rule requirements were not met.							
		Adjustment		\$22,500					
				\$2,500					
Violation Events									
		Number of Violation Events		1		352		Number of violation days	
		daily							
		weekly							
		monthly							
		quarterly							
		semiannual							
		annual							
		single event		X					
		Violation Base Penalty		\$2,500					
				One single event is recommended.					
Good Faith Efforts to Comply									
		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		\$5		Violation Final Penalty Total		\$2,800	
		This violation Final Assessed Penalty (adjusted for limits)		\$2,800					

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No.

Post Granada, LP
62158
RN103769592
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Training/Sampling cost captured in EB1.

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	\$5	14-Apr-2021	1-Apr-2022	0.96	\$0	\$5	\$5
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge. The Date Required is the notification due date. The Final Date is the screening date.

Approx. Cost of Compliance \$5

TOTAL \$5

Screening Date 1-Apr-2022 Respondent Post Granada, LP Case ID No. 62158 Reg. Ent. Reference No. RN103769592 Media Water Quality Enf. Coordinator Harley Hobson		Docket No. 2022-0390-WQ-E PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																		
Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code § 317.3(e)(5) Violation Description Failed to provide an audiovisual alarm system for the lift station. Specifically, the audiovisual alarm system at the Site was non-functional.		Base Penalty \$25,000																		
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1"> <tr> <td></td> <td colspan="3">Harm</td> </tr> <tr> <td>Release</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td>X</td> <td></td> </tr> </table>				Harm			Release	Major	Moderate	Minor	Actual				Potential		X		Percent 5.0%
		Harm																		
	Release	Major	Moderate	Minor																
Actual																				
Potential		X																		
>> Programmatic Matrix																				
Matrix Notes	<table border="1"> <tr> <td></td> <td>Falsification</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>				Falsification	Major	Moderate	Minor						Percent 0.0%						
		Falsification	Major	Moderate	Minor															
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		134 Number of violation days																		
<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td>X</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>		daily		weekly		monthly		quarterly	X	semiannual		annual		single event		Violation Base Penalty \$2,500				
daily																				
weekly																				
monthly																				
quarterly	X																			
semiannual																				
annual																				
single event																				
Two quarterly events are recommended from the record review date (November 18, 2021) to the screening date (April 1, 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 \$109		Violation Final Penalty Total \$2,800																		
This violation Final Assessed Penalty (adjusted for limits)			\$2,800																	

Economic Benefit Worksheet

Respondent Post Granada, LP
Case ID No. 62158
Reg. Ent. Reference No. RN103769592
Media Water Quality
Violation No. 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	\$1,000	13-Apr-2021	4-Nov-2022	1.56	\$5	\$104	\$109
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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated delayed cost to repair or replace the audiovisual alarm system at the lift station. The Date Required is the date the violation was initially documented. The Final Date is the estimated date of compliance.						

Avoided CostsANNUALIZE 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	\$1,000	TOTAL	\$109
----------------------------	---------	-------	-------

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 CN605996800, RN103769592, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605996800, Post Granada, LP **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN103769592, GRANADA APARTMENTS **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 834 South Getty Street in Uvalde, Uvalde County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

WATER QUALITY NON PERMITTED ID NUMBER
R13103769592

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

Date Compliance History Report Prepared: March 28, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 28, 2017 to March 28, 2022

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

Name: Harley Hobson

Phone: (512) 239-1337

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.):

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.

- 1 Date: 07/20/2021 (1725183)
- Self Report? NO Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
- Description: Failure to prevent unauthorized discharge of wastewater.
- Self Report? NO Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)
30 TAC Chapter 327 327.3(b)
- Description: Failure to provide notification to the TCEQ San Antonio Regional Office within 24 hours of discovering the sanitary sewer overflow (SSO).
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 317 317.3(e)(5)
- Description: Failure to have an adequate audiovisual alarm system.

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
POST GRANADA, LP
RN103769592

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2022-0390-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 Post Granada, LP (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 privately owned lift station located at 834 South Getty Street in Uvalde, Uvalde 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 \$33,602 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$772.00 of the penalty and \$6,720.00 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$26,110.00 shall be paid in 35 monthly payments of \$746.00 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely

and satisfactorily comply with all the terms of this Order. 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 a record review conducted on November 18, 2021, an investigator documented that the Respondent:

1. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1). Specifically, on April 13, 2021, a sanitary sewer overflow ("SSO") of sewage was documented coming from the Respondent's lift station located at 834 South Getty Street, onto the ground, and into the Leona River.
2. Failed to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge, in violation of 30 TEX. ADMIN. CODE § 327.32(b) and TEX. WATER CODE § 26.039(b). Specifically, the Respondent was aware of the SSO on April 13, 2021, but failed to notify the TCEQ within 24 hours of the occurrence.
3. Failed to provide an audiovisual alarm system for the lift station, in violation of 30 TEX. ADMIN. CODE § 317.3(e)(5). Specifically, the audiovisual alarm system at the Site was non-functional.

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: Post Granada, LP, Docket No. 2022-0390-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. Develop and implement procedures and conduct employee training to remove and properly dispose of discharged wastewater/sewage, to remediate the affected areas, and to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge; and
 - ii. Repair or replace the audiovisual alarm system at the lift station.
 - 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. and 2.a.ii. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/3/2024


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

2/26/2024

Date

John Jeter

Authorized Agent

Name (Printed or typed)
Authorized Representative of
Post Granada, LP

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.