

Executive Summary – Enforcement Matter – Case No. 62394

J. F. Presley Oil Company

RN111488813

Docket No. 2022-0623-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

296 Meadowlark Road, Diana, Upshur County

Type of Operation:

Construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: June 14, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,500

Amount Deferred for Expedited Settlement: \$3,500

Total Paid to General Revenue: \$14,000

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): March 18, 2022

Complaint Information: Alleged a construction site had not implemented sediment controls and had discharged sediment into State waters and a neighboring pond.

Date(s) of Investigation: March 24, 2022 through March 29, 2022

Date(s) of NOE(s): May 20, 2022

Executive Summary – Enforcement Matter – Case No. 62394

J. F. Presley Oil Company

RN111488813

Docket No. 2022-0623-WQ-E

Violation Information

1. Failed to obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

2. Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state. Specifically, over 120 acres of the Site was cleared allowing a significant amount of sediment to discharge into a wooded area, thence to an unnamed tributary, thence to Little Cypress Creek [TEX. WATER CODE § 26.121(a)(2)].

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 a stormwater pollution prevention plan to comply with the requirements of TPDES General Permit No. TXR150000;

ii. Submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System to obtain authorization to discharge stormwater;

iii. Post a Construction Site Notice;

iv. Submit a copy of the Notice of Intent to the receiving municipal separate storm sewer system;

v. Remove and dispose of the accumulated sediment from the wooded area and to restore proper water flow to the unnamed tributary; and

vi. Design, install, and maintain effective erosion and sediment controls to minimize the discharge of pollutants.

b. Within 45 days, submit written certification to demonstrate compliance with a.

Executive Summary – Enforcement Matter – Case No. 62394
J. F. Presley Oil Company
RN111488813
Docket No. 2022-0623-WQ-E

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: Jimmy Coulter, President, J. F. Presley Oil Company, P.O. Box 10, Diana, Texas 75640

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | |
|--------------|-----------------|-------------|------------------|-------------|
| DATES | Assigned | 23-May-2022 | | |
| | PCW | 31-May-2022 | Screening | 23-May-2022 |
| | | | EPA Due | |

| | | | | |
|--|---------------------------|---------------------------|-------|--|
| RESPONDENT/FACILITY INFORMATION | | | | |
| Respondent | J. F. Presley Oil Company | | | |
| Reg. Ent. Ref. No. | RN111488813 | | | |
| Facility/Site Region | 5-Tyler | Major/Minor Source | Minor | |

| | | | | |
|--|----------------|------------------------------|--------------------|--|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 62394 | No. of Violations | 2 | |
| Docket No. | 2022-0623-WQ-E | Order Type | 1660 | |
| Media Program(s) | Water Quality | Government/Non-Profit | No | |
| Multi-Media | | Enf. Coordinator | Shane Glantz | |
| | | 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 | \$17,500 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

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

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

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

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

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

| | | |
|------------------------------|----------|-----------------------------------|
| Total EB Amounts | \$1,526 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$10,225 | |

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$17,500 |
|-----------------------------|-----------------------|----------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$17,500 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$17,500 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|--------------|-----------|------------|----------|
| DEFERRAL | 20.0% | Reduction | Adjustment | -\$3,500 |
|-----------------|--------------|-----------|------------|----------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$14,000 |
|------------------------|----------|

Screening Date

23-May-2022

Docket No.

2022-0623-WQ-E

PCW

Respondent

J. F. Presley Oil Company

Case ID No.

62394

Reg. Ent. Reference No.

RN111488813

Media

Water Quality

Enf. Coordinator

Shane Glantz

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Number | Adjust. |
|-------------------------------|--|--------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2)0%

>> Repeat Violator (Subtotal 3)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

UnclassifiedAdjustment Percentage (Subtotal 7)0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%0%

| | | | | | |
|---|--|---|-------------------------------|--------------------------|---------------|
| Screening Date 23-May-2022 | | Docket No. 2022-0623-WQ-E | | PCW | |
| Respondent J. F. Presley Oil Company | | Policy Revision 5 (January 28, 2021) | | | |
| Case ID No. 62394 | | PCW Revision February 11, 2021 | | | |
| Reg. Ent. Reference No. RN111488813 | | | | | |
| Media Water Quality | | | | | |
| Enf. Coordinator Shane Glantz | | | | | |
| 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 obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000. | | | |
| | | 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 | | 2 | 60 | Number of violation days | |
| | daily | | | | |
| | weekly | | | | |
| | monthly | X | | | |
| | quarterly | | | | |
| | semiannual | | | | |
| | annual | | | | |
| | single event | | | | |
| Violation Base Penalty | | \$5,000 | | | |
| Two monthly events are recommended, calculated from the initial investigation date (March 24, 2022) to the screening date (May 23, 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 | | | | | \$5,000 |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | | \$28 | Violation Final Penalty Total | | \$5,000 |
| This violation Final Assessed Penalty (adjusted for limits) | | | | | \$5,000 |

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. J. F. Presley Oil Company 62394 RN111488813 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 | \$225 | 24-Mar-2022 | 20-Sep-2024 | 2.50 | \$28 | n/a | \$28 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |
| Notes for DELAYED costs | Estimated Permit Costs to submit a Notice of Intent through the State of Texas Environmental Electronic Reporting System to obtain authorization to discharge stormwater associated with construction activities under TPDES General Permit No. TXR150000. Date Required is the initial investigation date, and the Final Date is the estimated date of compliance. | | | | | | |

Avoided Costs

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

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

| | | | |
|----------------------------|-------|-------|------|
| Approx. Cost of Compliance | \$225 | TOTAL | \$28 |
|----------------------------|-------|-------|------|

| | | | | | | | | | | | | | | | | | | | | |
|--|--|--|----------------------------|-----------------------------------|---------------|---------|----------|----------------|-------|------------|-------|--------|--|---------------------|--|--|--|--|--|----------------------|
| Screening Date 23-May-2022 Respondent J. F. Presley Oil Company Case ID No. 62394 Reg. Ent. Reference No. RN111488813 Media Water Quality Enf. Coordinator Shane Glantz | | Docket No. 2022-0623-WQ-E PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i> | | | | | | | | | | | | | | | | | | |
| Violation Number 2 Rule Cite(s) Tex. Water Code § 26.121(a)(2) | | | | | | | | | | | | | | | | | | | | |
| Violation Description Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state. Specifically, over 120 acres of the Site was cleared allowing a significant amount of sediment to discharge into a wooded area, thence to an unnamed tributary, thence to Little Cypress Creek. | | | | | | | | | | | | | | | | | | | | |
| | | 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>X</td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table> | | | | Harm | | | Release | Major | Moderate | Minor | Actual | | X | | Potential | | | | Percent 25.0% |
| | | Harm | | | | | | | | | | | | | | | | | | |
| | Release | Major | Moderate | Minor | | | | | | | | | | | | | | | | |
| Actual | | X | | | | | | | | | | | | | | | | | | |
| Potential | | | | | | | | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | | | | | |
| | <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 | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | |
| Matrix Notes | Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation. | | | | | | | | | | | | | | | | | | | |
| | | | Adjustment \$18,750 | | | | | | | | | | | | | | | | | |
| | | | | \$6,250 | | | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | | | | | |
| Number of Violation Events 2 | | 60 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>X</td></tr> <tr><td>quarterly</td><td></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 | X | quarterly | | semiannual | | annual | | single event | | Violation Base Penalty \$12,500 | | | | |
| daily | | | | | | | | | | | | | | | | | | | | |
| weekly | | | | | | | | | | | | | | | | | | | | |
| monthly | X | | | | | | | | | | | | | | | | | | | |
| quarterly | | | | | | | | | | | | | | | | | | | | |
| semiannual | | | | | | | | | | | | | | | | | | | | |
| annual | | | | | | | | | | | | | | | | | | | | |
| single event | | | | | | | | | | | | | | | | | | | | |
| Two monthly events are recommended, calculated from the initial investigation date (March 24, 2022) to the screening date (May 23, 2022). | | | | | | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | | 0.0% | Reduction \$0 | | | | | | | | | | | | | | | | | |
| | <table border="1"> <tr> <td></td> <td>Before NOE/NOV</td> <td>NOE/NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td>X</td> <td></td> </tr> </table> | | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer | Extraordinary | | | Ordinary | | | N/A | X | | | | | | | | |
| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer | | | | | | | | | | | | | | | | | | |
| Extraordinary | | | | | | | | | | | | | | | | | | | | |
| Ordinary | | | | | | | | | | | | | | | | | | | | |
| N/A | X | | | | | | | | | | | | | | | | | | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | | | | | | | | | | | | | | | | | |
| | | | Violation Subtotal | \$12,500 | | | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | | | | | | | | | | | | | | | | | | |
| Estimated EB Amount \$1,498 | | Violation Final Penalty Total \$12,500 | | | | | | | | | | | | | | | | | | |
| This violation Final Assessed Penalty (adjusted for limits) | | | \$12,500 | | | | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent J. F. Presley Oil Company
Case ID No. 62394
Reg. Ent. Reference No. RN111488813
Media Water Quality
Violation No. 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 | \$5,000 | 24-Mar-2022 | 20-Sep-2024 | 2.50 | \$42 | \$832 | \$874 |
| 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 | \$5,000 | 24-Mar-2022 | 20-Sep-2024 | 2.50 | \$624 | n/a | \$624 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |
| Notes for DELAYED costs | <p>Estimated Engineering/Construction cost to design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. Date Required is the initial investigation date, and the Final Date is the estimated date of compliance.</p> <p>Estimated Remediation/Disposal cost to remove and dispose of the accumulated sediment from the wooded area and to restore proper water flow to the unnamed tributary. Date Required is the initial investigation date, and the Final Date is the estimated date of compliance.</p> | | | | | | |

Avoided Costs

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

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

Approx. Cost of Compliance \$10,000

TOTAL \$1,498

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 CN601351455, RN111488813, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

| | | | |
|---|--|-------------------------------------|--------------------------------|
| Customer, Respondent, or Owner/Operator: | CN601351455, J. F. Presley Oil Company | Classification: UNCLASSIFIED | Rating: ----- |
| Regulated Entity: | RN111488813, 296 MEADOWLARK ROAD | Classification: UNCLASSIFIED | Rating: ----- |
| Complexity Points: | 3 | Repeat Violator: | NO |
| CH Group: | 14 - Other | | |
| Location: | 296 Meadowlark Road, Diana, Upshur County, Texas | | |
| TCEQ Region: | REGION 05 - TYLER | | |
| ID Number(s): | | | |
| WATER QUALITY NON PERMITTED ID NUMBER TXR150000 | | | |
| Compliance History Period: | September 01, 2018 to August 31, 2023 | Rating Year: 2023 | Rating Date: 09/01/2023 |
| Date Compliance History Report Prepared: | April 05, 2024 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Component Period Selected: | April 05, 2019 to April 05, 2024 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History. | | | |
| Name: | TCEQ Staff Member | Phone: | (512) 239-1000 |

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.):

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
J. F. PRESLEY OIL COMPANY
RN111488813

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

AGREED ORDER DOCKET NO. 2022-0623-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 J. F. Presley Oil Company (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 operates a construction site located at 296 Meadowlark Road in Diana, Upshur 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 \$17,500 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$14,000 of the penalty and \$3,500 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During an investigation for the Site conducted from March 24, 2022 through March 29, 2022, an investigator documented that the Respondent:

1. Failed to obtain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000.
2. Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(2). Specifically, over 120 acres of the Site was cleared allowing a significant amount of sediment to discharge into a wooded area, thence to an unnamed tributary, thence to Little Cypress Creek.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: J. F. Presley Oil Company, Docket No. 2022-0623-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 a stormwater pollution prevention plan to comply with the requirements of TPDES General Permit No. TXR150000;
 - ii. Submit a Notice of Intent ("NOI") through the State of Texas Environmental Electronic Reporting System to obtain authorization to discharge stormwater;
 - iii. Post a Construction Site Notice;
 - iv. Submit a copy of the NOI to the receiving municipal separate storm sewer system;
 - v. Remove and dispose of the accumulated sediment from the wooded area and to restore proper water flow to the unnamed tributary; and
 - vi. Design, install, and maintain effective erosion and sediment controls to minimize the discharge of pollutants.
- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.vi. 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:

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

with a copy to:

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

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. 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 Water Enforcement Section at the address listed above.
6. 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.
7. 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.
8. 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

6/24/2024

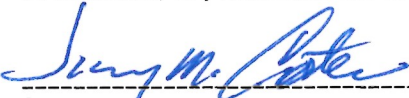
Date

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 Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.


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



Signature

5/14/24

Date



Name (Printed or typed)
Authorized Representative of
J. F. Presley Oil Company



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.