

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 62472
Polasek Development, LLC
RN110500030
Docket No. 2022-0718-WQ-E

Page 1 of 2

Order Type:
Agreed Order

Media:
WQ

Small Business:
Yes

Location Where Violation Occurred:
southwest corner of Farm-to-Market Road 1750 and Nora Miller Road, Abilene, Taylor County (the "Site")

Type of Operation:
construction stie

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third Parties: None

Texas Register Publication Date: December 29, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$9,475

Total Paid to General Revenue: \$375

Total Due to General Revenue: \$9,100

Payment Plan: 35 payments of \$260 each

Compliance History Classifications:
Person/CN - Unclassified
Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date: April 8, 2022
Complaint Information: Complainant alleged a construction site in Taylor county was not implementing best management practices.

Date of Investigation: April 29, 2022

Date of NOV: September 3, 2021

Date of NOE: May 31, 2022

Polasek Development, LLC**RN110500030****Docket No. 2022-0718-WQ-E****Violation Information**

1. Failed to post the TCEQ site notice near the main entrance of the construction site [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollution Discharge Elimination System (TPDES) General Permit No. TXR15005S, Part III, Section D.2].
2. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR15005S, Part III, Section F.6(d)].
3. Failed to install and maintain best management practices at the Site [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15005S, Part III, Section G.1].

Corrective Actions/Technical Requirements**Corrective Actions Completed:**

1. Respondent implemented the following corrective measures at the Site:
 - a. Posted the TCEQ site notice near the main entrance of the construction site by June 8, 2022; and
 - b. Submitted a Notice of Termination to TCEQ on November 10, 2022, and operational control transferred to Taylor County as of January 31, 2023.

Technical Requirements:

None

Litigation Information**Date Petition Filed:** November 30, 2022**Date of Service:** December 8, 2022**Settlement Date:** November 16, 2023**Contact Information****TCEQ Attorneys:** Marilyn Norrod, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575**TCEQ Enforcement Coordinator:** Harley Hobson, Enforcement Division, (512) 239-1337**TCEQ Regional Contact:** Cliff Moore, Abilene Regional Office, (325) 698-9674**Respondent Contact:** Heath Polasek, Manager, Polasek Development, LLC, 1357 Farm-to-Market Road
1750, Abilene, Texas 79602**Respondent's Attorney:** Aaron Polasek, Attorney at Law, 3918 Forbesbury Drive, Houston, Texas
77084



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Jun-2022	Screening	9-Jun-2022	EPA Due	
	PCW	8-Jun-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	Polasek Development, LLC				
Reg. Ent. Ref. No.	RN110500030				
Facility/Site Region	3-Abilene		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	62472	No. of Violations	3
Docket No.	2022-0718-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 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0%	Adjustment	Subtotals 2, 3, & 7	\$475
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Notes	Enhancement for one NOV with the same/similar violations.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.			
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$500
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$113	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,600	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,475
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes				
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Final Penalty Amount	\$9,475
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,475
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.			
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PAYABLE PENALTY	\$9,475
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Screening Date	9-Jun-2022	Docket No.	2022-0718-WQ-E	PCW
Respondent	Polasek Development, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62472			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN110500030			
Media	Water Quality			
Enf. Coordinator	Harley Hobson			

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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

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 9-Jun-2022 Respondent Polasek Development, LLC Case ID No. 62472 Reg. Ent. Reference No. RN110500030 Media Water Quality Enf. Coordinator Harley Hobson Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR15005S, Part III, Section D.2 Violation Description Failed to post the TCEQ site notice near the main entrance of the construction site.	Docket No. 2022-0718-WQ-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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	Base Penalty
	\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes		Falsification			
		Major	Moderate	Minor	
		X			Percent 10.0%
100% of the rule requirements were not met.					

	Adjustment
	\$22,500

	Violation Subtotal
	\$2,500

Violation Events

Number of Violation Events	2	40	Number of violation days
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daily							
weekly							
monthly		X					
quarterly							
semiannual							
annual							
single event							

	Violation Base Penalty
	\$5,000

Two monthly events are recommended from the investigation date (April 29, 2022) to the compliance date (June 8, 2022).

Good Faith Efforts to Comply

	10.0%	
		Reduction
		\$500

Extraordinary						
Ordinary			X			
N/A						
Notes	The Respondent achieved compliance by June 8, 2021.					

	Violation Subtotal
	\$4,500

Economic Benefit (EB) for this violation

Estimated EB Amount		\$1	Violation Final Penalty Total		\$4,750	
This violation Final Assessed Penalty (adjusted for limits)					\$4,750	

Economic Benefit Worksheet

Respondent Polasek Development, LLC
Case ID No. 62472
Reg. Ent. Reference No. RN110500030
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$100	29-Apr-2022	8-Jun-2022	0.11	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to post the TCEQ site notice near the main entrance. The Date Required is the investigation date. The Final Date is the compliance date.

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

\$100

TOTAL

\$1

Screening Date 9-Jun-2022 Respondent Polasek Development, LLC Case ID No. 62472 Reg. Ent. Reference No. RN110500030 Media Water Quality Enf. Coordinator Harley Hobson Violation Number 2 Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES General Permit No. TXR15005S, Part III, Section F.6(d)	Docket No. 2022-0718-WQ-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Description	Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, during the investigation it was noted that sediment had left the east perimeter of the Site and travelled into the drainage ditch along Nora Miller Road.
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Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm				
		Major	Moderate	Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text"/>		
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
					Percent 15.0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent 0.0%

Matrix Notes	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.
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Adjustment	\$21,250
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	\$3,750
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Violation Events

Number of Violation Events	1		41	Number of violation days
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	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			

Violation Base Penalty	\$3,750
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One quarterly event is recommended from the investigation date (April 29, 2022) to the screening date (June 9, 2022).	
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Good Faith Efforts to Comply

	0.0%				
	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="text"/>	<input type="text"/>			
Notes	The Respondent does not meet the good faith criteria for this violation.				

Violation Subtotal	\$3,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$36	Statutory Limit Test	
		Violation Final Penalty Total	\$3,938
This violation Final Assessed Penalty (adjusted for limits)			\$3,938

Economic Benefit Worksheet

Respondent Polasek Development, LLC
Case ID No. 62472
Reg. Ent. Reference No. RN110500030
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	29-Apr-2022	17-Jan-2023	0.72	\$36	n/a	\$36
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Remediation/Disposal cost to remove and dispose of accumulated sediment from the drainage ditch along Nora Miller Road. The Date Required is the investigation date. 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

\$1,000

TOTAL

\$36

Screening Date 9-Jun-2022 Respondent Polasek Development, LLC Case ID No. 62472 Reg. Ent. Reference No. RN110500030 Media Water Quality Enf. Coordinator Harley Hobson	Docket No. 2022-0718-WQ-E Base Penalty \$25,000	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	3	Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR15005S, Part III, Section G.1
Violation Description	Failed to install and maintain best management practices ("BMPs") at the Site. Specifically, the silt fencing at the southeast detention pond along the east perimeter of the Site and the east perimeter along Norma Miller Road was missing.		

Base Penalty
\$25,000

>> Environmental, Property and Human Health Matrix

OR

	Release	Major	Harm Moderate	Minor	
Actual					Percent 3.0%
Potential				X	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to 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

41 Number of violation days

	daily					
	weekly					Violation Base Penalty \$750
	monthly					
	quarterly					
	semiannual					
	annual					
	single event	X				

One single event is recommended.

Good Faith Efforts to Comply

0.0%
 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Reduction \$0

	Extraordinary				
	Ordinary				
	N/A	X			

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal
\$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$76

Statutory Limit Test

Violation Final Penalty Total \$788

This violation Final Assessed Penalty (adjusted for limits) \$788

Economic Benefit Worksheet

Respondent Polasek Development, LLC
Case ID No. 62472
Reg. Ent. Reference No. RN110500030
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
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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	\$1,500	29-Apr-2022	17-Jan-2023	0.72	\$4	\$72	\$76
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Engineering/Construction cost to install and maintain BMPs at the Site. The Date Required is the investigation date. 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

\$1,500

TOTAL

\$76



Compliance History Report

Compliance History Report for CN605572817, RN110500030, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605572817, Polasek Development, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN110500030, HUNTER'S LANDING **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 09 - Construction

Location: Southwest corner of Farm-to-Market Road 1750 and Nora Miller Road in Abilene, Taylor County, Texas

TCEQ Region: REGION 03 - ABILENE

ID Number(s):
STORMWATER PERMIT TXR15005S

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

Date Compliance History Report Prepared: June 07, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 07, 2017 to June 07, 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? 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.

- 1 Date: 09/03/2021 (1745450)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TPDES CGP Part II (E)(3)(c) PERMIT
- Description: Failure to post a completed construction site notice at the construction site.
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TPDES CGP Part III, Section F (4)(a) PERMIT
- Description: Failure to install a stabilized entrance/exit point.
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TPDES CGP Part III Section F(2)(c)(i)(B) PERMIT
- Description: Failure to install perimeter stormwater controls at the site.

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
POLASEK DEVELOPMENT, LLC;
RN110500030

§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2022-0718-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Polasek Development, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Aaron Polasek, Attorney at Law, together stipulate that:

1. Respondent owns and operates a construction site located at the southwest corner of Farm-to-Market Road 1750 and Nora Miller Road in Abilene, Taylor 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 Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that 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 the state's water quality program.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of nine thousand four hundred seventy-five dollars (\$9,475.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred seventy-five dollars (\$375.00) of the penalty. The remaining amount of nine thousand one hundred dollars (\$9,100.00) shall be paid in thirty-five (35) monthly payments of two hundred sixty dollars (\$260.00) 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.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, 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 Respondent has not complied with one or more of the terms or conditions contained 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 full 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 measure at the Site:
 - a. Posted the TCEQ site notice near the main entrance of the construction site by June 8, 2022; and
 - b. Submitted a Notice of Termination to TCEQ on November 10, 2022, and operational control transferred to Taylor County as of January 31, 2023.

II. ALLEGATIONS

1. During an investigation conducted on April 29, 2022, an investigator documented that Respondent:
 - a. Failed to post the TCEQ site notice near the main entrance of the construction site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollution Discharge Elimination System ("TPDES") General Permit No. TXR15005S, Part III, Section D.2.
 - b. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXR15005S, Part III, Section F.6(d). Specifically, during the investigation it was noted that sediment had left the east perimeter of the Site and travelled into the drainage ditch along Nora Miller Road.
 - c. Failed to install and maintain best management practices ("BMPs") at the Site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR15005S, Part III, Section G.1. Specifically, the silt fencing at the southeast detention pond along the east perimeter of the Site and the east perimeter along Norma Miller Road was missing.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and 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 actions 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: Polasek Development, LLC, Docket No. 2022-0718-WQ-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
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 Respondent. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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.
5. If 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. This Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ 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



1/22/24

For the Executive Director

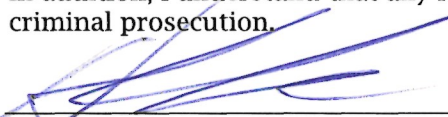
Date

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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.


Signature - Heath Polasek, Manager
Polasek Development, LLC
1357 Farm-to-Market Road 1750
Abilene, Texas 79602

Date

11/16/23

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