Executive Summary – Enforcement Matter – Case No. 62700
RIGHT-WAY SAND CO.
RN107949745
Docket No. 2022-0938-WQ-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
WQ
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Right Way Sand, 2730 Highland Shores Drive, Highlands, Harris County
Type of Operation:
Aggregate production operation ("APO")
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: May 10, 2024
Comments Received: No

Penalty Information

Total Penalty Assessed: $13,375
Amount Deferred for Expedited Settlement: $2,675
Total Paid to General Revenue: $10,700
Total Due to General Revenue: $0
Payment Plan: N/A
Compliance History Classifications:
Person/CN - High
Site/RN - High
Major Source: No
Statutory Limit Adjustment: $3,660
Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 1, 2022
Date(s) of NOE(s): June 27, 2022

Executive Summary – Enforcement Matter – Case No. 62700
RIGHT-WAY SAND CO.
RN107949745
Docket No. 2022-0938-WQ-E

Violation Information

1. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DO61 expired on August 14, 2021, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

2. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0002771 expired on July 30, 2020, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. By August 5, 2020, registered the Site as an APO through the State of Texas Environmental Electronic Reporting System under APO Registration No. AP0003352; and

b. By April 2, 2022, prepared and implemented a stormwater pollution prevention plan, submitted a Notice of Intent through STEERS, and obtained authorization to discharge stormwater associated with industrial activities through TPDES MSGP No. TXR05FP95.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Madison Stringer, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1126; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548
Respondent: Jack E. Adcox, President, RIGHT-WAY SAND CO., 623 West Texas Avenue, Baytown, Texas 77520
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021) *PCW Revision February 11, 2021*

DATES						
	Assigned	5-Jul-2022				
	PCW	4-Mar-2024	**Screening**	13-Jul-2022	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	RIGHT-WAY SAND CO. PCW No. 1 of 2		
Reg. Ent. Ref. No.	RN107949745		
Facility/Site Region	12-Houston	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	62700	**No. of Violations**	1
Docket No.	2022-0938-WQ-E	**Order Type**	1660
Media Program(s)	Aggregate Production Operation	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Madison Stringer
		EC's Team	Enforcement Team 1

Admin. Penalty $ Limit Minimum	$5,000	**Maximum**	$20,000	**Violation Maximum**	$40,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) ***Subtotal 1*** **$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **-8.0%** Adjustment ***Subtotals 2, 3, & 7*** **-$160**

Notes: Enhancement for one NOV with dissimilar violations and reduction for High Performer Classification.

Culpability No **0.0%** Enhancement ***Subtotal 4*** **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments ***Subtotal 5*** **-$500**

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$0
Estimated Cost of Compliance	$500

SUM OF SUBTOTALS 1-7 ***Final Subtotal*** **$1,340**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$1,340**

STATUTORY LIMIT ADJUSTMENT ***Final Assessed Penalty*** **$5,000**

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

DEFERRAL **20.0%** Reduction ***Adjustment*** **-$1,000**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$4,000**

Screening Date 13-Jul-2022 **Docket No.** 2022-0938-WQ-E **PCW**

Respondent RIGHT-WAY SAND CO. PCW No. 1 of 2

Policy Revision 5 (January 28, 2021)

Case ID No. 62700

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN107949745

Media Aggregate Production Operation

Enf. Coordinator Madison Stringer

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations and reduction for High Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -8%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** -8%

Screening Date	13-Jul-2022	**Docket No.** 2022-0938-WQ-E	**PCW**
Respondent	RIGHT-WAY SAND CO. PCW No. 1 of 2	*Policy Revision 5 (January 28, 2021)*	
Case ID No.	62700	*PCW Revision February 11, 2021*	
Reg. Ent. Reference No.	RN107949745		
Media	Aggregate Production Operation		
Enf. Coordinator	Madison Stringer		

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 342.25(d)
Violation Description	Failed to renew the Aggregate Production Opperation ("APO") registration annually as regulated activities continuted. Specifically, APO Registration No. AP0002771 expired on July 30, 2020, and the Respondent continued to operate.

Base Penalty $20,000

>> 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 requirement was not met.

Adjustment $18,000

$2,000

Violation Events

Number of Violation Events: 1 — 6 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

One single event is recommended.

Violation Base Penalty $2,000

Good Faith Efforts to Comply

25.0% Reduction $500

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

Notes: The Respondent achieved compliance by August 5, 2020.

Violation Subtotal $1,500

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $1,340

This violation Final Assessed Penalty (adjusted for limits) $5,000

Economic Benefit Worksheet

Respondent RIGHT-WAY SAND CO. PCW No. 1 of 2
Case ID No. 62700
Reg. Ent. Reference No. RN107949745
Media Aggregate Production Operation
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs	$500	30-Jul-2020	5-Aug-2020	0.02	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to register the Site as an APO. Date Required is the date that Authorization No. AP0002771 expired and the Final Date is the date of compliance.						
Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $500

TOTAL $0

Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021) — *PCW Revision February 11, 2021*

DATES						
	Assigned	5-Jul-2022				
	PCW	4-Mar-2024	**Screening**	13-Jul-2022	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	RIGHT-WAY SAND CO. PCW No. 2 of 2		
Reg. Ent. Ref. No.	RN107949745		
Facility/Site Region	12-Houston	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	62700	**No. of Violations**	1
Docket No.	2022-0938-WQ-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Madison Stringer
		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*** **$12,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **-8.0%** Adjustment — ***Subtotals 2, 3, & 7*** **-$1,000**

Notes: Enhancement for one NOV with dissimilar violations and reduction for High Performer Classification.

Culpability No **0.0%** Enhancement — ***Subtotal 4*** **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — ***Subtotal 5*** **-$3,125**

Economic Benefit **0.0%** Enhancement* — ***Subtotal 6*** **$0**

Total EB Amounts $4
Estimated Cost of Compliance $225

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$8,375**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$8,375**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$8,375**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$1,675**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$6,700**

Screening Date	13-Jul-2022	**Docket No.** 2022-0938-WQ-E	**PCW**
Respondent	RIGHT-WAY SAND CO. PCW No. 2 of 2		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62700		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN107949745		
Media	Water Quality		
Enf. Coordinator	Madison Stringer		

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations and reduction for High Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -8%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** -8%

Screening Date	13-Jul-2022	**Docket No.** 2022-0938-WQ-E	**PCW**
Respondent	RIGHT-WAY SAND CO. PCW No. 2 of 2		*Policy Revision 5 (January 28, 2021)*
Case ID No.	62700		*PCW Revision February 11, 2021*
Reg. Ent. Reference No.	RN107949745		
Media	Water Quality		
Enf. Coordinator	Madison Stringer		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DO61 expired on August 14, 2021, and the Respondent continued to operate.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10.0%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $22,500

$2,500

Violation Events

Number of Violation Events: 5 — Number of violation days: 141

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $12,500

Five monthly events are recommended from the permit renewal grace period end date (November 12, 2021) to the date of compliance (April 2, 2022).

Good Faith Efforts to Comply

25.0% Reduction $3,125

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

Notes: The Respondent achieved compliance by April 2, 2022.

Violation Subtotal $9,375

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $8,375

This violation Final Assessed Penalty (adjusted for limits) $8,375

Economic Benefit Worksheet

Respondent RIGHT-WAY SAND CO. PCW No. 2 of 2
Case ID No. 62700
Reg. Ent. Reference No. RN107949745
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				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs	$225	12-Nov-2021	2-Apr-2022	0.39	$4	n/a	$4
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Actual Permit Cost to submit a Notice of Intent to obtain authorization to discharge stormwater and develop a Stormwater Pollution Prevention Plan. The Date Required is the end of the permit renewal grace period end date and the Final Date is the date of compliance.						
Avoided Costs	ANNUALIZE avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance				0.00	$0	$0	$0
ONE-TIME avoided costs				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $225

TOTAL $4

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 CN604689042, RN107949745, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN604689042, RIGHT-WAY SAND CO. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN107949745, RIGHT WAY SAND **Classification:** HIGH **Rating:** 0.00

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

CH Group: 04 - Mining

Location: 2730 HIGHLAND SHORES DRIVE, HIGHLANDS, HARRIS COUNTY, TEXAS 775622250

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
AGGREGATE PRODUCTION OPERATION REGISTRATION **STORMWATER** PERMIT TXR05FP95
AP0003352

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: March 04, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 04, 2019 to March 04, 2024

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

Name: Madison Stringer **Phone:** (512) 239-1126

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
Item 1 April 21, 2020 (1637726)

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: 12/14/2023 (1931514)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR050000, Part III. Section A(5)(a)(8) PERMIT
Description: Failure to maintain copies of inspection reports.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

TXR050000, Part V. Section J(9)(a) PERMIT

Description: Failure to conduct annual employee training.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR050000, Part III. Section C.(1)(c) PERMIT
Description: Failure to provide a copy of the waiver for the hazardous metals monitoring.

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
RIGHT-WAY SAND CO.	**§**	
RN107949745	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2022-0938-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 RIGHT-WAY SAND CO. (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an aggregate production operation located at 2730 Highland Shores Drive in Highlands, Harris County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).

2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26 and 28A and the rules of the TCEQ.

3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

4. An administrative penalty in the amount of $13,375 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid $10,700 of the penalty and $2,675 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.

7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Site:

   a. By August 5, 2020, registered the Site as an APO through the State of Texas Environmental Electronic Reporting System (“STEERS”) under APO Registration No. AP0003352; and

   b. By April 2, 2022, prepared and implemented a stormwater pollution prevention plan, submitted a Notice of Intent through STEERS, and obtained authorization to discharge stormwater associated with industrial activities through Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05FP95.

II. ALLEGATIONS

During an investigation at the Site conducted on April 1, 2022, an investigator documented that the Respondent:

1. Failed to maintain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under TPDES MSGP No. TXR05DO61 expired on August 14, 2021, and the Respondent continued to operate.

2. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d). Specifically, APO Registration No. AP0002771 expired on July 30, 2020, and the Respondent continued to operate.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ"

and shall be sent with the notation "Re: RIGHT-WAY SAND CO., Docket No. 2022-0938-WQ-E" to:

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

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

3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.

4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____ _____
For the Commission Date

_____ 6/24/2024
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, 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.

_____ 6/20/2024
Signature Date

Jack Adcox President
Name (Printed or typed) Title
Authorized Representative of
RIGHT-WAY SAND CO.

☐ *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.