

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel

Thru: *MSC* Melissa Cordell, Assistant Deputy Director
Enforcement Division

From: *MP* Michael Parrish, Agenda Special Assistant
Enforcement Division

Date: January 21, 2025

Subject: Backup Revision
January 30, 2025 Commission Agenda
Draft Item No. 21 – JF Excavation and Materials, LLC
Docket No. 2023-0043-WQ-E

Enclosed please find the following:

Executive Summary:

- Page 1, Penalty Information - Add “Total Due to General Revenue: \$8,400.”

Please do not hesitate to call Michael Parrish at (512) 239-2548 if you have any questions regarding this matter.

cc: Garrett Arthur, Public Interest Counsel
Melissa Schmidt, Public Interest Counsel
Gill Valls, Office of General Counsel
Katherine McKenzie, Agenda Coordinator, Litigation Division
Amy Settemeyer, Deputy Director, Enforcement Division
Melissa Cordell, Assistant Deputy Director, Enforcement Division
Rebecca Margain-Nunez, Executive Assistant, Enforcement Division
Brett Lanham, Manager, Water Section, Enforcement Division
Monica Larina, Enforcement Coordinator, Water Section, Enforcement Division

Executive Summary – Enforcement Matter – Case No. 63451
JF Excavation and Materials, LLC
RN111611430
Docket No. 2023-0043-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

JF Excavation & Materials County Line Road, 9400 County Line Road, Willis,
Montgomery 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: The complainant has expressed an interest in this
matter but does not wish to speak at Agenda

Texas Register Publication Date: November 15, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,750

Amount Deferred for Expedited Settlement: \$2,350

Total Paid to General Revenue: \$1,000

Total Due to General Revenue: \$8,400

Payment Plan: 35 monthly payments of \$240 each

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$3,200

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): September 13, 2022

Complaint Information: Alleged an APO operating without authorization.

Date(s) of Investigation: October 5, 2022 through October 26, 2022

Date(s) of NOE(s): December 9, 2022

Executive Summary – Enforcement Matter – Case No. 63451
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Other Significant Matters:

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Executive Summary – Enforcement Matter – Case No. 63451
JF Excavation and Materials, LLC
RN111611430
Docket No. 2023-0043-WQ-E

Violation Information

1. Failed to register the Site as an APO no later than the 10th business day before the beginning date of regulated activities [30 TEX. ADMIN. CODE § 342.25(b)].
2. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was performing aggregate excavation activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Registered the Site as an APO on March 16, 2023; and
- b. Obtained authorization to discharge stormwater on March 11, 2023.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Monica Larina, Enforcement Division, Enforcement Team 1, MC R-14, (361) 881-6965; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Jose Fuentes, Owner, JF Excavation and Materials, LLC, 10655 Farm-to-market Road 2432, Conroe, Texas 77303-2517

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	12-Dec-2022	Screening	16-Dec-2022	EPA Due	
	PCW	21-Feb-2023				

RESPONDENT/FACILITY INFORMATION

Respondent	JF Excavation and Materials, LLC PCW 1 of 2
Reg. Ent. Ref. No.	RN111611430
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	63451		No. of Violations	1	
Docket No.	2023-0043-WQ-E		Order Type	1660	
Media Program(s)	Aggregate Production Operation		Government/Non-Profit	No	
Multi-Media			Enf. Coordinator	Monica Larina	
			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
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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	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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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	-\$200
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$18
Estimated Cost of Compliance	\$790

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,800
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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	\$1,800
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$4,000
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Screening Date	16-Dec-2022	Docket No.	2023-0043-WQ-E	PCW
Respondent	JF Excavation and Materials, LLC PCW 1 of 2			
Case ID No.	63451	<i>Policy Revision 5 (January 28, 2021)</i>		
Reg. Ent. Reference No.	RN111611430	<i>PCW Revision February 11, 2021</i>		
Media	Aggregate Production Operation			
Enf. Coordinator	Monica Larina			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

**Compliance
History
Notes**

No adjustment for Compliance History.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date	16-Dec-2022	Docket No.	2023-0043-WQ-E	PCW
Respondent	JF Excavation and Materials, LLC	PCW 1 of 2		
Case ID No.	63451	<i>Policy Revision 5 (January 28, 2021)</i>		
Reg. Ent. Reference No.	RN111611430	<i>PCW Revision February 11, 2021</i>		
Media	Aggregate Production Operation			
Enf. Coordinator	Monica Larina			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 342.25(b)			
Violation Description	Failed to register the Site as an aggregate production operation no later than the 10th business day before the beginning date of regulated activities.			
Base Penalty				\$20,000

>> Environmental, Property and Human Health Matrix

OR	Release	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	72	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

	10.0%		
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary		x	
N/A			
Notes	The Respondent returned to compliance on 3/16/2023, after the 12/9/2022 NOE and prior to IPAO mailout.		
Violation Subtotal			\$1,800

Economic Benefit (EB) for this violation

Estimated EB Amount	\$18	Statutory Limit Test
		Violation Final Penalty Total
		\$1,800
		This violation Final Assessed Penalty (adjusted for limits)
		\$5,000

Economic Benefit Worksheet

Respondent JF Excavation and Materials, LLC PCW 1 of 2
Case ID No. 63451
Reg. Ent. Reference No. RN111611430
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
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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	\$790	5-Oct-2022	16-Mar-2023	0.44	\$18	n/a	\$18
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual Permit cost to register the Site as an APO. The Date Required is the initial investigation date, and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$790

TOTAL

\$18



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	12-Dec-2022	Screening	16-Dec-2022	EPA Due	
	PCW	21-Feb-2023				

RESPONDENT/FACILITY INFORMATION

Respondent	JF Excavation and Materials, LLC PCW 2 of 2
Reg. Ent. Ref. No.	RN111611430
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	63451	No. of Violations	1
Docket No.	2023-0043-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Monica Larina
		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	\$7,500
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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	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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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	-\$750
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$59	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,725	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,750
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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	\$6,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,350
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$5,400
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Screening Date	16-Dec-2022	Docket No.	2023-0043-WQ-E	PCW
Respondent	JF Excavation and Materials, LLC	PCW 2 of 2		
Case ID No.	63451	Policy Revision 5 (January 28, 2021)		
Reg. Ent. Reference No.	RN111611430	PCW Revision February 11, 2021		
Media	Water Quality			
Enf. Coordinator	Monica Larina			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
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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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-Dec-2022 Respondent JF Excavation and Materials, LLC PCW 2 of 2 Case ID No. 63451 Reg. Ent. Reference No. RN111611430 Media Water Quality Enf. Coordinator Monica Larina	Docket No. 2023-0043-WQ-E <div style="border: 1px solid black; padding: 5px;"> Violation Number 1 </div> <div style="border: 1px solid black; padding: 5px;"> Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c) </div> <div style="border: 1px solid black; padding: 5px;"> Violation Description Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was performing aggregate excavation activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR050000. </div>	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																		
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	x																			
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Violation Events																				
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Three monthly events are recommended, from the initial investigation date (October 5, 2022) to the screening date (December 16, 2022).																				
Good Faith Efforts to Comply		10.0% Reduction \$750																		
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Notes The Respondent returned to compliance on 3/11/2023; after the 12/9/2022 NOE and prior to IPAO mailout.																				
		Violation Subtotal \$6,750																		
Economic Benefit (EB) for this violation		Statutory Limit Test																		
Estimated EB Amount \$59		Violation Final Penalty Total \$6,750																		
		This violation Final Assessed Penalty (adjusted for limits) \$6,750																		

Economic Benefit Worksheet

Respondent JF Excavation and Materials, LLC PCW 2 of 2
Case ID No. 63451
Reg. Ent. Reference No. RN111611430
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	\$225	5-Oct-2022	11-Mar-2023	0.43	\$5	n/a	\$5
Other (as needed)	\$2,500	5-Oct-2022	11-Mar-2023	0.43	\$54	n/a	\$54

Notes for DELAYED costs

Actual Permit Cost to submit a Notice of Intent to obtain authorization to discharge stormwater. The Date Required is the initial investigation date, and the Final Date is the date of compliance.

Estimated Other cost to develop and implement a stormwater pollution prevention plan. The Date Required is the initial investigation date, and Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,725

TOTAL

\$59



Compliance History Report

Compliance History Report for CN605565183, RN111611430, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN605565183, Jf Excavation And Materials, LLC	Classification: SATISFACTORY	Rating: 0.40
Regulated Entity:	RN111611430, JF EXCAVATION & MATERIALS COUNTY LINE RD	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator:	N/A
CH Group:	04 - Mining		
Location:	9400 County Line Road, in Willis, Montgomery County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

STORMWATER PERMIT TXR05FZ89

WATER QUALITY NON PERMITTED ID NUMBER
R12111611430

AGGREGATE PRODUCTION OPERATION REGISTRATION
AP0003805

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: August 28, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 28, 2018 to August 28, 2023

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

Name: Monica Larina

Phone: (512) 239-0184

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

Customer was not affiliated to Regulated Entity at time of Compliance History Rating.

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
JF EXCAVATION AND MATERIALS,
LLC
RN111611430

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

AGREED ORDER DOCKET NO. 2023-0043-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 JF Excavation and Materials, LLC (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 is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is an owner and operator, as defined in TEX. WATER CODE § 28A.001(5) and (4), of an aggregate production operation ("APO") located at 9400 County Line Road in Willis, Montgomery County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1). 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 \$11,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$1,000 of the penalty and \$2,350 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$8,400 of the undeferred penalty shall be paid in 35 monthly payments of \$240 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 the Respondent fails to comply with the payment requirements of this Order,

including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and 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. Registered the Site as an APO on March 16, 2023; and
 - b. Obtained authorization to discharge stormwater on March 11, 2023.

II. ALLEGATIONS

During an investigation at the Site conducted from October 5, 2022 to October 26, 2022, an investigator documented that the Respondent:

1. Failed to register the Site as an APO no later than the 10th business day before the beginning date of regulated activities, in violation of 30 TEX. ADMIN. CODE § 342.25(b).
2. 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, the Respondent was performing aggregate excavation activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR050000.

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: JF Excavation and Materials, LLC, Docket No. 2023-0043-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


For the Executive Director

11/20/2024

Date

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

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

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

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

Signature

Date

Jose A. Fuentes
Name (Printed or typed)
Authorized Representative of
JF Excavation and Materials, LLC

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.