

# TCEQ Interoffice Memorandum

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**To:** Mary Smith, General Counsel

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

**From:** *MP* Michael Parrish, Team Leader  
Special Functions Team

**Date:** August 1, 2024

**Subject: Backup Revision**  
**August 14, 2024 Commission Agenda**  
Draft Item No. 58 – Texas Concrete Sand and Gravel, Inc.  
Docket No. 2023-0360-WQ-E

Enclosed please find the following:

Executive Summary:

- Page 1, Past-Due Penalties: Add the amount of past-due penalties.

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, Special Functions and Compliance Monitoring,  
Enforcement Division  
Katy Montgomery, Team Leader, Water Section, Enforcement Division  
Megan Crinklaw, Enforcement Coordinator, Water Section, Enforcement  
Division

**Executive Summary – Enforcement Matter – Case No. 63705**  
**Texas Concrete Sand and Gravel, Inc.**  
**RN108298225**  
**Docket No. 2023-0360-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Cleveland Plant, 100 County Road 397, Cleveland, Liberty County

**Type of Operation:**

Aggregate production operation

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2024-0507-WQ-E

Past-Due Penalties: Yes, **\$210 for** Account #20046586 for General Permit

Stormwater

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 12, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,738

**Amount Deferred for Expedited Settlement:** \$2,347

**Total Paid to General Revenue:** \$9,391

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 4, 2023

**Date(s) of NOE(s):** February 15, 2023

**Executive Summary – Enforcement Matter – Case No. 63705**  
**Texas Concrete Sand and Gravel, Inc.**  
**RN108298225**  
**Docket No. 2023-0360-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Cleveland Plant, 100 County Road 397, Cleveland, Liberty County

**Type of Operation:**

Aggregate production operation

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2024-0507-WQ-E

Past-Due Penalties: Yes, \$210 for Account #20046586 for General Permit

Stormwater

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 12, 2024

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Site/RN - Satisfactory

**Major Source:** No

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***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 4, 2023

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**Executive Summary – Enforcement Matter – Case No. 63705**  
**Texas Concrete Sand and Gravel, Inc.**  
**RN108298225**  
**Docket No. 2023-0360-WQ-E**

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1660 Agreed Order

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N/A

**Media:**

WQ

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Yes

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Cleveland Plant, 100 County Road 397, Cleveland, Liberty County

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Aggregate production operation

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2024-0507-WQ-E

Past-Due Penalties: Yes, Account #20046586 for General Permit Stormwater

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 12, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,738

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Site/RN - Satisfactory

**Major Source:** No

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**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 4, 2023

**Date(s) of NOE(s):** February 15, 2023

**Executive Summary – Enforcement Matter – Case No. 63705**  
**Texas Concrete Sand and Gravel, Inc.**  
**RN108298225**  
**Docket No. 2023-0360-WQ-E**

***Violation Information***

1. Failed to prevent the unauthorized discharge of process water into or adjacent to any water in the state. Specifically, process water was discharging from the Site into the San Jacinto River [TEX. WATER CODE § 26.121(a)(2)].
2. Failed to develop a written Mine Plan. Specifically, the Respondent failed to develop a written Mine Plan that is certified by a Texas Professional Engineer or Professional Geoscientist [30 TEX. ADMIN. CODE § 311.103(h)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. By January 4, 2023:
  - i. Ceased the unauthorized discharge; and
  - ii. Repaired the berm around the process pond.
- b. By April 24, 2024, developed and submitted a copy of a written Mine Plan that is certified by a Texas Professional Engineer or Professional Geoscientist.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, implement and maintain the Mine Plan; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Megan Crinklaw, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1129; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Somaiah Kurre, President, Texas Concrete Sand and Gravel, Inc., 3506 Cherry Street, Houston, Texas 77026

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	21-Feb-2023		
	<b>PCW</b>	10-May-2024	<b>Screening</b>	24-Feb-2023
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>				
<b>Respondent</b>	Texas Concrete Sand and Gravel, Inc.			
<b>Reg. Ent. Ref. No.</b>	RN108298225			
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor	

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	63705	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2023-0360-WQ-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Megan Crinklaw	
		<b>EC's Team</b>	Enforcement Team 1	
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,750
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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.

<b>Compliance History</b>	<b>52.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$4,550
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<b>Notes</b>	Enhancement for one NOV with the same/similar violations, one NOV with dissimilar violations, one order containing a denial of liability, and one order without a denial of liability.			
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.			
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$1,562
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$172	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$4,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,738
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>		<b>Final Penalty Amount</b>	\$11,738
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,738
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<b>DEFERRAL</b>	<b>20.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	-\$2,347
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.			
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<b>PAYABLE PENALTY</b>	\$9,391
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Screening Date

24-Feb-2023

Docket No.

2023-0360-WQ-E

PCW

Respondent

Texas Concrete Sand and Gravel, Inc.

Case ID No.

63705

Reg. Ent. Reference No.

RN108298225

Media

Water Quality

Enf. Coordinator

Megan Crinklaw

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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	1	25%
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)52%

>> Repeat Violator (Subtotal 3)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory PerformerAdjustment Percentage (Subtotal 7)0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with the same/similar violations, one NOV with dissimilar violations, one order containing a denial of liability, and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)52%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%52%

Screening Date		24-Feb-2023		Docket No.		2023-0360-WQ-E		PCW		
Respondent		Texas Concrete Sand and Gravel, Inc.						Policy Revision 5 (January 28, 2021)		
Case ID No.		63705						PCW Revision February 11, 2021		
Reg. Ent. Reference No.		RN108298225								
Media		Water Quality								
Enf. Coordinator		Megan Crinklaw								
Violation Number		1								
Rule Cite(s)		Tex. Water Code § 26.121(a)(2)								
Violation Description		Failed to prevent the unauthorized discharge of process water into or adjacent to any water in the state. Specifically, process water was discharging from the Site into the San Jacinto River.								
		Base Penalty						\$25,000		
>> Environmental, Property and Human Health Matrix										
OR	Release		Major		Moderate		Minor			
	Actual				x				Percent	
	Potential								25.0%	
>> Programmatic Matrix										
		Falsification		Major		Moderate		Minor		
										Percent
										0.0%
Matrix Notes		Human health or the environment has been exposed to significant amounts of pollutants which do not exceed that are protective of human health or environmental receptors as a result of the violation.								
		Adjustment						\$18,750		
								\$6,250		
Violation Events										
		Number of Violation Events		1		1		Number of violation days		
		daily								
		weekly								
		monthly		x						
		quarterly								
		semiannual								
		annual								
		single event								
		Violation Base Penalty						\$6,250		
		One monthly event is recommended for the January 4, 2023 unauthorized discharge date.								
Good Faith Efforts to Comply		25.0%				Reduction		\$1,562		
		Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer						
		Extraordinary								
		Ordinary		x						
		N/A								
		Notes		The Respondent achieved compliance by January 4, 2023.						
		Violation Subtotal						\$4,688		
Economic Benefit (EB) for this violation										
		Estimated EB Amount		\$0		Violation Final Penalty Total		\$7,938		
		This violation Final Assessed Penalty (adjusted for limits)						\$7,938		



Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. Texas Concrete Sand and Gravel, Inc. 63705 RN108298225 Water Quality 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$2,000	4-Jan-2023	4-Jan-2023	0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Other cost to cease discharging, and to repair the berm around the process water pond. The Date Required is the date of the unauthorized discharge, 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	\$2,000	TOTAL	\$0
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<b>Screening Date</b>		24-Feb-2023		<b>Docket No.</b> 2023-0360-WQ-E		<b>PCW</b>	
<b>Respondent</b>		Texas Concrete Sand and Gravel, Inc.				<i>Policy Revision 5 (January 28, 2021)</i>	
<b>Case ID No.</b>		63705				<i>PCW Revision February 11, 2021</i>	
<b>Reg. Ent. Reference No.</b>		RN108298225					
<b>Media</b>		Water Quality					
<b>Enf. Coordinator</b>		Megan Crinklaw					
<b>Violation Number</b>		<input type="text" value="2"/>					
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 311.103(h)(1)"/>					
<b>Violation Description</b>		<input type="text" value="Failed to develop a written Mine Plan. Specifically, the Respondent failed to develop a written Mine Plan that is certified by a Texas Professional Engineer or Professional Geoscientist."/>					
<b>Base Penalty</b>						<input type="text" value="\$25,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>							
<b>OR</b>	<b>Release</b>		<b>Harm</b>				
		Major	Moderate	Minor			
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>			
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b>	<input type="text" value="0.0%"/>	
<b>&gt;&gt;Programmatic Matrix</b>							
	Falsification	Major	Moderate	Minor			
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b>	<input type="text" value="10.0%"/>	
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>						
<b>Adjustment</b>						<input type="text" value="\$22,500"/>	
						<input type="text" value="\$2,500"/>	
<b>Violation Events</b>							
Number of Violation Events		<input type="text" value="1"/>		<input type="text" value="51"/>		Number of violation days	
	daily	<input type="text"/>					
	weekly	<input type="text"/>					
	monthly	<input type="text"/>					
	quarterly	<input type="text"/>					
	semiannual	<input type="text"/>					
	annual	<input type="text"/>					
	single event	<input checked="" type="text" value="x"/>					
<input type="text" value="One single event is recommended."/>							
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>		<b>Reduction</b>		<input type="text" value="\$0"/>	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer				
	Extraordinary	<input type="text"/>					
	Ordinary	<input type="text"/>					
	N/A	<input checked="" type="text" value="x"/>					
	Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>					
<b>Violation Subtotal</b>						<input type="text" value="\$2,500"/>	
<b>Economic Benefit (EB) for this violation</b>				<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$172"/>		<b>Violation Final Penalty Total</b>		<input type="text" value="\$3,800"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>						<input type="text" value="\$3,800"/>	

Economic Benefit Worksheet

Respondent Case ID No. Texas Concrete Sand and Gravel, Inc. 63705  
Reg. Ent. Reference No. RN108298225  
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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	4-Jan-2023	23-Sep-2024	1.72	\$172	n/a	\$172
Notes for DELAYED costs	Estimated Other cost to develop and implement a written Mine Plan that is certified by a licensed Texas Professional Engineer or Professional Geoscientist. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.						

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

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

Approx. Cost of Compliance	\$2,000	TOTAL	\$172
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# Compliance History Report

Compliance History Report for CN604045708, RN108298225, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN604045708, Texas Concrete Sand and Gravel, Inc. **Classification:** SATISFACTORY **Rating:** 32.97

**Regulated Entity:** RN108298225, Cleveland Plant **Classification:** SATISFACTORY **Rating:** 4.29

**Complexity Points:** 6 **Repeat Violator:** NO

**CH Group:** 04 - Mining

**Location:** 100 County Road 397, Cleveland, Liberty County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AGGREGATE PRODUCTION OPERATION REGISTRATION** **STORMWATER PERMIT** TXR05FH02  
AP0002939

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 93908

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

**Date Compliance History Report Prepared:** May 10, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 10, 2019 to May 10, 2024

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

**Name:** Mistie Gonzales **Phone:** (254) 761-3056

## 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:**

- 1 Effective Date: 08/18/2020 ADMINORDER 2019-1190-WQ-E (1660 Order-Agreed Order With Denial)  
Classification: Minor  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)  
Rqmt Prov: TPDES General Permit No. TXR05DH80, Part PERMIT  
Description: Failed to maintain a complete SWP3, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a), 40 CODE OF FEDERAL REGULATIONS § 122.26(c), and TPDES General Permit No. TXR05DH80, Part III, SWP3.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2)  
Description: Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(2).
- 2 Effective Date: 03/25/2024 ADMINORDER 2021-1362-WQ-E (Findings Order-Default)  
Classification: Major  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: TPDES MSGP No. TXR05DH80 PERMIT  
Description: Failed to install and maintain best management practices at the Facility which resulted in a discharge of

pollutants into or adjacent to any water in the state.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: TPDES MSGP No. TXR05DH80 PERMIT

Description: Failed to report an unauthorized discharge orally to the TCEQ Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Regional Office and the TCEQ Enforcement Division, within five days of becoming aware of the noncompliance.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 2	May 03, 2022	(1811122)
Item 3	June 24, 2022	(1823404)
Item 4	June 27, 2022	(1823475)
Item 5	March 30, 2023	(1894595)
Item 6	February 14, 2024	(1972096)

**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: 04/22/2024 (1966531)	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) Part III, Section E, No. 6(b)(1) PERMIT	
	Description: Failure to report an unauthorized discharge orally to the TCEQ Houston Region Office within 24 hours of becoming aware of the noncompliance, and in writing to the TCEQ Houston Region Office and TCEQ Enforcement Division within five days of being aware of the noncompliance.	
	Self Report? NO	Classification: Major
	Citation: TWC Chapter 26 26.121	
	Description: Failure to prevent the unauthorized discharge of process water into waters of the state.	
2	Date: 04/22/2024 (1956306)	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 334, SubChapter A 334.1(a)(1)	
	Description: Failure to register Aboveground Storage Tanks (ASTs) greater than 1,100 gallons.	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 311, SubChapter J 311.103(d)	
	Description: Failure to develop and implement infeasibility documentation for the vegetative buffer zones requirement.	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 311, SubChapter J 311.103(b) 30 TAC Chapter 311, SubChapter J 311.103(j)	
	Description: Failure to maintain structural controls.	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 285, SubChapter A 285.3(a)	
	Description: Failure to hold a permit and an approved plan to construct or operate an on-site sewage facility.	

**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  
TEXAS CONCRETE SAND AND  
GRAVEL, INC.  
RN108298225

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

## AGREED ORDER DOCKET NO. 2023-0360-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 Texas Concrete Sand and Gravel, Inc. (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates an aggregate production operation located at 100 County Road 397 in Cleveland, Liberty County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$11,738 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,391 of the penalty and \$2,347 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 January 4, 2023, the Respondent:
    - i. Ceased the unauthorized discharge; and
    - ii. Repaired the berm around the process pond.
  - b. By April 24, 2024, the Respondent developed and submitted a copy of a written Mine Plan that is certified by a Texas Professional Engineer or Professional Geoscientist.

## **II. ALLEGATIONS**

During an investigation at the Site conducted on January 4, 2023, an investigator documented that the Respondent:

1. Failed to prevent the unauthorized discharge of process water into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(2). Specifically, process water was discharging from the Site into the San Jacinto River.
2. Failed to develop a written Mine Plan, in violation of 30 TEX. ADMIN. CODE § 311.103(h)(1). Specifically, the Respondent failed to develop a written Mine Plan that is certified by a Texas Professional Engineer or Professional Geoscientist.

## **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: Texas Concrete Sand and Gravel, Inc., Docket No. 2023-0360-WQ-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, implement and maintain the Mine Plan.
  - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk St, Ste H  
Houston TX 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and

substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.

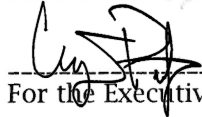
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order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

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

-----  
For the Commission

-----  
Date



7/8/2024

-----  
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.



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Signature

6/11/2024

-----  
Date

SOMAIHAH KURRE

-----  
Name (Printed or typed)

President

-----  
Title

Authorized Representative of

Texas Concrete Sand and Gravel, Inc.

☐ 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.