

**Executive Summary – Enforcement Matter – Case No. 64056**

**CMPW Properties LLC**

**RN111581690**

**Docket No. 2023-0670-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

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

Park Central Development, located 0.95 mile south on State Highway 69 from the intersection of State Highway 80 and State Highway 69, Mineola, Wood County

**Type of Operation:**

Construction site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 8, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$23,625

**Amount Deferred for Expedited Settlement:** \$4,725

**Total Paid to General Revenue:** \$18,900

**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:** March 21, 2023

**Date(s) of NOE(s):** May 11, 2023

**Executive Summary – Enforcement Matter – Case No. 64056**

**CMPW Properties LLC  
RN111581690  
Docket No. 2023-0670-WQ-E**

***Violation Information***

1. Failed to properly select, install, and maintain control measures according to the manufacturer's or designer's specifications. Specifically, the sedimentation basin was constructed without an outlet structure to allow for withdrawal of water from the surface [30 TEX. ADMIN. CODE § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1502KS, Part III, Section F.2.(c).i.(A)(4)].

2. Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state. Specifically, the two concrete box culverts that traverse under County Road 2720 were nearly filled to capacity with eroded sediment. Also, eroded sediment tracked off-site along the roadway ditch between County Road 2720 and South Pacific Street/State Highway 69 South, and deposits were documented at a depth of three to six inches in the wooded area between the two roadways [TEX. WATER CODE § 26.121(a)(1)].

3. Failed to initiate stabilization measures where construction activities had temporarily ceased and would not resume within 14 days or where construction activities had permanently ceased. Specifically, it appeared that no construction activities had occurred since the October 26, 2022 investigation, and no temporary stabilization was observed [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR1502KS, Part III, Sections F.2.(b)iii and G.2].

4. Failed to remove accumulations of sediment at a frequency that minimizes off-site impact. Specifically, during the investigation it was noted the amount of sediment that escaped the site had increased since the October 26, 2022 investigation, in the downstream side of the concrete box culvert and in the roadway ditch between County Road 2720 and South Pacific Street/State Highway 69 South. Also, the ditch appeared to be at least 80% full of sediment and covered the culvert openings by 50% or more, indicating increased off-site impacts [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR1502KS, Part III, Section F.6(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days, initiate stabilization measures where construction activities have temporarily ceased and have not resumed within the last 14 days or where construction activities have permanently ceased.

**Executive Summary – Enforcement Matter – Case No. 64056**

**CMPW Properties LLC**

**RN111581690**

**Docket No. 2023-0670-WQ-E**

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

c. Within 60 days:

i. Install an outlet structure to withdraw water from the surface of the sedimentation basin, until such time as the sedimentation basin is no longer in service; and

ii. To the extent possible, remove and dispose of accumulated sediment from the concrete box culverts that traverse under County Road 2720, along the roadway ditch between County Road 2720 and South Pacific Steet/State Highway 69 South, and in the wooded area between County Road 2720 and South Pacific Steet/State Highway 69 South.

d. Within 75 days, submit written certification to demonstrate compliance with c.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Harley Hobson, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1337; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Peter Woolford, Co-Owner, CMPW Properties LLC, P.O. Box 2424, Lindale, Texas 75771

**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>	15-May-2023			
	<b>PCW</b>	18-May-2023	<b>Screening</b>	22-May-2023	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	CMPW Properties LLC				
<b>Reg. Ent. Ref. No.</b>	RN111581690				
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	64056	<b>No. of Violations</b>	4		
<b>Docket No.</b>	2023-0670-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>	Harley Hobson		
		<b>EC's Team</b>	Enforcement Team 1		
<b>Admin. Penalty \$ Limit</b>	<b>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>	\$22,500
---	-------------------	----------

### 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>	5.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$1,125
---------------------------	-----------------	--------------------------------	---------

Notes: Enhancement for one NOV with the same/similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$960  
 Estimated Cost of Compliance: \$10,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$23,625
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$23,625
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$23,625
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$4,725
-----------------	-------	-----------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$18,900
------------------------	----------

**Screening Date** 22-May-2023

**Docket No.** 2023-0670-WQ-E

**PCW**

**Respondent** CMPW Properties LLC

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 64056

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN111581690

**Media** Water Quality

**Enf. Coordinator** Harley Hobson

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 5%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one NOV with the same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

**Screening Date** 22-May-2023  
**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Docket No.** 2023-0670-WQ-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1502KS, Part III, Section F.2.(c)i.(A)(4)

**Violation Description** Failed to properly select, install, and maintain control measures according to the manufacturer's or designer's specifications. Specifically, the sedimentation basin was constructed without an outlet structure to allow for withdrawal of water from the surface.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

**>> Programmatic Matrix**

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

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended from the March 21, 2023 investigation date to the May 22, 2023 screening date.

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**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	\$3,000	26-Oct-2022	24-May-2024	1.58	\$16	\$316	\$332
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated Engineering/Construction cost to install an outlet structure to withdraw water from the surface of the sedimentation basin, until such time as the sedimentation basin is no longer in service. The Date Required is the initial investigation date, and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$3,000

**TOTAL**

\$332

**Screening Date** 22-May-2023  
**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Docket No.** 2023-0670-WQ-E

**PCW**

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

**Violation Number**

**Rule Cite(s)**

**Violation Description**

Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state. Specifically, the two concrete box culverts that traverse under County Road 2720 were nearly filled to capacity with eroded sediment. Also, eroded sediment tracked off-site along the roadway ditch between County Road 2720 and South Pacific Steet/State Highway 69 South, and deposits were documented at a depth of three to six inches in the wooded area between the two roadways.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

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

**Percent**

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events

Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two monthly events are recommended from the March 21, 2023 investigation date to the May 22, 2023 screening date.

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

Notes

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**



# Economic Benefit Worksheet

**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				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	\$5,000	26-Oct-2022	24-May-2024	1.58	\$395	n/a	\$395
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated Remediation/Disposal cost to remove and dispose of accumulated sediment from the culverts that traverse under County Road 2720, the roadway ditch between County Road 2720 and South Pacific Steet/State Highway 69 South, and in the wooded area between County Road 2720 and South Pacific Steet/State Highway 69 South. The Date Required is the initial investigation date, and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$5,000

**TOTAL** \$395

**Screening Date** 22-May-2023  
**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Docket No.** 2023-0670-WQ-E

**PCW**

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

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR1502KS, Part III, Sections F.2.(b)iii and G.2

**Violation Description** Failed to initiate stabilization measures where construction activities had temporarily ceased and would not resume within 14 days or where construction activities had permanently ceased. Specifically, it appeared that no construction activities had occurred since the October 26, 2022 investigation, and no temporary stabilization was observed.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1 59 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the March 21, 2023 investigation date to the May 22, 2023 screening date.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

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

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

**Violation Subtotal** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$233

**Violation Final Penalty Total** \$1,313

**This violation Final Assessed Penalty (adjusted for limits)** \$1,313

# Economic Benefit Worksheet

**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$2,000	26-Aug-2022	24-Apr-2024	1.66	\$11	\$222	\$233
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated Engineering/Construction cost to initiate stabilization measures where construction activities have temporarily ceased and have not resumed within the last 14 days or where construction activities have permanently ceased. The Date Required is the initial investigation date, and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

**TOTAL**

**Screening Date** 22-May-2023  
**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Docket No.** 2023-0670-WQ-E

**PCW**

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

**Violation Number** 4

**Rule Cite(s)** 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR1502KS, Part III, Section F.6(d)

**Violation Description**

Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, during the investigation it was noted the amount of sediment that escaped the site had increased since the October 26, 2022 investigation, in the downstream side of the concrete box culvert and in the roadway ditch between County Road 2720 and South Pacific Steet/State Highway 69 South. Also, the ditch appeared to be at least 80% full of sediment and covered the culvert openings by 50% or more, indicating increased off-site impacts.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 2      59 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

Two monthly events are recommended from the March 21, 2023 investigation date to the May 22, 2023 screening date.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

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

Notes

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

**Violation Subtotal** \$7,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$7,875

**This violation Final Assessed Penalty (adjusted for limits)** \$7,875

## Economic Benefit Worksheet

**Respondent** CMPW Properties LLC  
**Case ID No.** 64056  
**Reg. Ent. Reference No.** RN111581690  
**Media** Water Quality  
**Violation No.** 4

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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Remediation/Disposal cost captured in Economic Benefit No. 2.

### 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 \$0

**TOTAL** \$0



# Compliance History Report

Compliance History Report for CN606027563, RN111581690, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN606027563, CMPW Properties LLC      **Classification:** SATISFACTORY      **Rating:** 14.00

**Regulated Entity:** RN111581690, PARK CENTRAL DEVELOPMENT      **Classification:** SATISFACTORY      **Rating:** 16.00

**Complexity Points:** 0      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 0.95 miles south on Highway 69 from the intersection of Highway 80 and Highway 69 in Mineola, Wood County, Texas

**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):**

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

**Date Compliance History Report Prepared:** November 02, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 02, 2018 to November 02, 2023

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

**Name:** Harley Hobson      **Phone:** (512) 239-1337

## Site and Owner/Operator History:

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

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

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

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

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

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

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

- 1      Date:      01/06/2023      (1866729)  
Self Report?      NO      Classification:      Moderate  
Citation:      30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
TXR150000 PERMIT  
Description:      Failure to develop a Stormwater Pollution Prevention Plan per TPDES General  
Permit TXR150000, Part II.E.3(a).  
Self Report?      NO      Classification:      Moderate  
Citation:      30 TAC Chapter 281, SubChapter A 281.25(a)(4)

TXR150000 PERMIT  
Description: Failure to utilize an outlet structure that withdraws water from the surface when discharging from a basin per TPDES General Permit TXR150000, Part III, Section F.2(c).i.(A)(4).  
Self Report? NO Classification: Moderate  
Citation: TWC Chapter 26 26.121  
Description: Failure to prevent the unauthorized discharge of sediment into or adjacent to Waters in the State per Texas Water Code, Chapter 26.121.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
TXR150000 PERMIT  
Description: Failure to install silt fencing on all down slope boundaries of the construction area per TPDES General Permit TXR150000, Part III, Section F.2.(c)i(B).

**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  
CMPW PROPERTIES LLC  
RN111581690

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-0670-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 CMPW Properties LLC (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 owns and operates a construction site located 0.95 miles south on Highway 69 from the intersection of Highway 80 and Highway 69 in Mineola, Wood 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 \$23,625 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$18,900 of the penalty and \$4,725 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.



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

## II. ALLEGATIONS

During an investigation at the Site conducted on March 21, 2023, an investigator documented that the Respondent:

1. Failed to properly select, install, and maintain control measures according to the manufacturer's or designer's specifications, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1502KS, Part III, Section F.2.(c).i.(A)(4). Specifically, the sedimentation basin was constructed without a outlet structure to allow for withdrawal of water from the surface.
2. Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1). Specifically, the two concrete box culverts that traverse under County Road 2720 were nearly filled to capacity with eroded sediment. Also, eroded sediment tracked off-site along the roadway ditch between County Road 2720 and South Pacific Steet/State Highway 69 South, and deposits were documented at a depth of three to six inches in the wooded area between the two roadways.
3. Failed to initiate stabilization measures where construction activities had temporarily ceased and would not resume within 14 days or where construction activities had permanently ceased, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR1502KS, Part III, Sections F.2.(b)iii and G.2. Specifically, it appeared that no construction activities had occurred since the October 26, 2022 investigation, and no temporary stabilization was observed.
4. Failed to remove accumulations of sediment at a frequency that minimizes off-site impact, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR1502KS, Part III, Section F.6(d). Specifically, during the investigation it was noted the amount of sediment that escaped the site had increased since the October 26, 2022 investigation, in the downstream side of the concrete box culvert and in the roadway ditch between County Road 2720 and South Pacific Steet/State Highway 69 South. Also, the ditch appeared to be at least 80% full of sediment and covered the culvert openings by 50% or more, indicating increased off-site impacts.

### 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: CMPW Properties LLC, Docket No. 2023-0670-WQ-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, the Respondent shall initiate stabilization measures where construction activities have temporarily ceased and have not resumed within the last 14 days or where construction activities have permanently ceased.
  - 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, in accordance with Ordering Provision No. 2.d.
  - c. Within 60 days after the effective date of this Order, the Respondent shall:
    - i. Install an outlet structure to withdraw water from the surface of the sedimentation basin, until such time as the sedimentation basin is no longer in service; and
    - ii. To the extent possible, remove and dispose of accumulated sediment from the concrete box culverts that traverse under County Road 2720, along the roadway ditch between County Road 2720 and South Pacific Steet/State Highway 69 South, and in the wooded area between County Road 2720 and South Pacific Steet/State Highway 69 South.
  - d. Within 75 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i and 2.c.ii. 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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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.
7. 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.

8. 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.
9. 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  
  
-----  
4/2/2024  
-----  
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.

-----  
*Peter Woolford*  
Signature  
Date  
4/29/24

-----  
*Peter Woolford*  
Name (Printed or typed)  
Authorized Representative of  
CMPW Properties LLC  
Title  
Co-Owner

*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.