

**Executive Summary – Enforcement Matter – Case No. 64444**  
**Canyon Creek Custom Homes LLC**  
**RN111507562**  
**Docket No. 2023-1035-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

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

Byrum Ranch Phase 1, Ozro Road and Farm-to-Market Highway 157, Maypearl, Ellis 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:** July 19, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,875

**Amount Deferred for Expedited Settlement:** \$2,175

**Total Paid to General Revenue:** \$265

**Total Due to General Revenue:** \$8,435

Payment Plan: 35 payments of \$241 each

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** March 26, 2023

**Complaint Information:** Alleged that the operator had ineffective stormwater controls leading to an illicit discharge and flooding onto the roadway.

**Date(s) of Investigation:** April 20, 2023

**Date(s) of NOE(s):** August 1, 2023

***Violation Information***

**Executive Summary – Enforcement Matter – Case No. 64444**  
**Canyon Creek Custom Homes LLC**  
**RN111507562**  
**Docket No. 2023-1035-WQ-E**

1. Failed to maintain authorization to discharge stormwater associated with construction activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1515JH expired on March 5, 2023, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
2. Failed to properly select, install, and maintain control measures according to good engineering practices, and the manufacturer's or designer's specifications. Specifically, the Site contained no evidence of control measures [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR150000, Part III, Section F.2(a)ii].
3. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, an accumulation of sediment was noted in the culvert and the adjacent ditch [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a), and TPDES General Permit No. TXR150000, Part III, Section F.6(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. By June 21, 2023, developed and implemented a stormwater pollution prevention plan, and submitted a Notice of Intent to discharge stormwater associated with construction activities under TPDES Construction General Permit No. TXR1510NI;
- b. By August 9, 2023, achieved final stabilization at the Site; and
- c. By August 9, 2023, removed and disposed of the accumulated sediment from the ditch and culverts.

**Technical Requirements:**

N/A

***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:** Justin Crocker, Owner, Canyon Creek Custom Homes LLC, 203 George Hopper Road, Suite 400, Midlothian, Texas 76065

**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>	31-Jul-2023			
	<b>PCW</b>	9-Aug-2023	<b>Screening</b>	9-Aug-2023	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Canyon Creek Custom Homes LLC				
<b>Reg. Ent. Ref. No.</b>	RN111507562				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	64444	<b>No. of Violations</b>	3		
<b>Docket No.</b>	2023-1035-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 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>	\$12,500
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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.

<b>Compliance History</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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<b>Notes</b>	No adjustment for Compliance History
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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>	-\$1,625
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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	\$50	<i>*Capped at the Total EB \$ Amount</i>
Estimated Cost of Compliance	\$5,725	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$10,875
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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.

Notes

<b>Final Penalty Amount</b>	\$10,875
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,875
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<b>DEFERRAL</b>	<b>20.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	-\$2,175
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$8,700
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Screening Date

9-Aug-2023

Docket No.

2023-1035-WQ-E

PCW

Respondent

Canyon Creek Custom Homes LLC

Case ID No.

64444

Reg. Ent. Reference No.

RN111507562

Media

Water Quality

Enf. Coordinator

Harley Hobson

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> )	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)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

UnclassifiedAdjustment 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		9-Aug-2023		Docket No.		2023-1035-WQ-E		PCW	
Respondent		Canyon Creek Custom Homes LLC						Policy Revision 5 (January 28, 2021)	
Case ID No.		64444						PCW Revision February 11, 2021	
Reg. Ent. Reference No.		RN111507562							
Media		Water Quality							
Enf. Coordinator		Harley Hobson							
Violation Number		1							
Rule Cite(s)		30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)							
Violation Description		Failed to maintain authorization to discharge stormwater associated with construction activities. Specifically, authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR1515JH expired on March 5, 2023, and the Respondent continued to operate.							
						Base Penalty		\$25,000	
>> Environmental, Property and Human Health Matrix									
OR		Release		Harm					
			Major	Moderate	Minor				
		Actual							
		Potential				Percent		0.0%	
>> Programmatic Matrix									
		Falsification	Major	Moderate	Minor				
			x			Percent		10.0%	
Matrix Notes		100% of the rule requirements were not met.							
						Adjustment		\$22,500	
								\$2,500	
Violation Events									
		Number of Violation Events		1		16		Number of violation days	
		daily							
		weekly							
		monthly	x						
		quarterly							
		semiannual							
		annual							
		single event				Violation Base Penalty		\$2,500	
		One monthly event is recommended from the June 6, 2023 permit application grace period end date to the June 21, 2023 compliance date.							
Good Faith Efforts to Comply		25.0%				Reduction		\$625	
		Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer					
		Extraordinary							
		Ordinary	x						
		N/A							
		Notes	The Respondent achieved compliance on June 21, 2023.						
						Violation Subtotal		\$1,875	
Economic Benefit (EB) for this violation									
		Estimated EB Amount		\$5		Violation Final Penalty Total		\$1,875	
						This violation Final Assessed Penalty (adjusted for limits)		\$1,875	

Economic Benefit Worksheet

Respondent Canyon Creek Custom Homes LLC  
Case ID No. 64444  
Reg. Ent. Reference No. RN111507562  
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	6-Jun-2023	21-Jun-2023	0.04	\$0	n/a	\$0
Other (as needed)	\$2,500	6-Jun-2023	21-Jun-2023	0.04	\$5	n/a	\$5
Notes for DELAYED costs	<p>Actual Permit Cost to submit a Notice of Intent to obtain authorization to discharge stormwater. The Date Required is the first day following the grace period end date, and the Final Date is the date of compliance.</p> <p>Estimated Other cost to develop and implement a stormwater pollution prevention plan. The Date Required is the first day following the grace period end date, and the Final Date is the date of compliance.</p>						

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	\$5
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<b>Screening Date</b> 9-Aug-2023		<b>Docket No.</b> 2023-1035-WQ-E		<b>PCW</b>	
<b>Respondent</b> Canyon Creek Custom Homes LLC		<i>Policy Revision 5 (January 28, 2021)</i>			
<b>Case ID No.</b> 64444		<i>PCW Revision February 11, 2021</i>			
<b>Reg. Ent. Reference No.</b> RN111507562					
<b>Media</b> Water Quality					
<b>Enf. Coordinator</b> Harley Hobson					
<b>Violation Number</b>		2			
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000, Part III, Section F.2(a)ii			
<b>Violation Description</b>		Failed to properly select, install, and maintain control measures according to good engineering practices, and the manufacturer's or designer's specifications. Specifically, the Site contained no evidence of control measures.			
		<b>Base Penalty</b>		\$25,000	
>> Environmental, Property and Human Health Matrix					
OR	<b>Release</b>		<b>Harm</b>		
		Major	Moderate	Minor	
	Actual				
	Potential		x		<b>Percent</b> 5.0%
>>Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 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.				
<b>Adjustment</b>					\$23,750
					\$1,250
Violation Events					
Number of Violation Events		2	111	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly	x		<b>Violation Base Penalty</b> \$2,500	
	semiannual				
	annual				
	single event				
Two quarterly events are recommended from the April 20, 2023 investigation date to the August 9, 2023 screening date.					
<b>Good Faith Efforts to Comply</b>		10.0%		<b>Reduction</b> \$250	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary				
	Ordinary		x		
	N/A				
	Notes	The Respondent achieved compliance by August 9, 2023.			
<b>Violation Subtotal</b>					\$2,250
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>			<b>Violation Final Penalty Total</b> \$2,250		
\$30					
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					\$2,250

Economic Benefit Worksheet

Respondent Canyon Creek Custom Homes LLC  
Case ID No. 64444  
Reg. Ent. Reference No. RN111507562  
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	20-Apr-2023	9-Aug-2023	0.30	\$30	n/a	\$30
Notes for DELAYED costs	Estimated cost to achieve final stabilization on all portions of the site that are the responsibility of the Respondent. The Date Required is the investigation date, and the Final Date is the 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	\$30
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<b>Screening Date</b>	9-Aug-2023	<b>Docket No.</b>	2023-1035-WQ-E	<b>PCW</b>
<b>Respondent</b>	Canyon Creek Custom Homes LLC	<i>Policy Revision 5 (January 28, 2021)</i>		
<b>Case ID No.</b>	64444	<i>PCW Revision February 11, 2021</i>		
<b>Reg. Ent. Reference No.</b>	RN111507562			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Harley Hobson			
<b>Violation Number</b>	3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121(a), and TPDES General Permit No. TXR150000, Part III, Section F.6(d)			
<b>Violation Description</b>	Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts. Specifically, an accumulation of sediment was noted in the culvert and the adjacent ditch.			
<b>Base Penalty</b>				\$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			x
Potential				
<b>Percent</b>				15.0%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
<b>Percent</b>				0.0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
<b>Adjustment</b>				\$21,250
				\$3,750
<b>Violation Events</b>				
Number of Violation Events		2	111	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
<b>Violation Base Penalty</b>				\$7,500
Two quarterly events are recommended from the April 20, 2023 investigation date to the August 9, 2023 screening date.				
<b>Good Faith Efforts to Comply</b>		10.0%	<b>Reduction</b>	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary		x		
N/A				
Notes	The Respondent achieved compliance by August 9, 2023.			
<b>Violation Subtotal</b>				\$6,750
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$15	<b>Violation Final Penalty Total</b>	\$6,750	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$6,750

# Economic Benefit Worksheet

**Respondent** Canyon Creek Custom Homes LLC  
**Case ID No.** 64444  
**Reg. Ent. Reference No.** RN111507562  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	20-Apr-2023	9-Aug-2023	0.30	\$15	n/a	\$15
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 ditch and culverts. The Date Required is the 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	\$1,000	TOTAL	\$15
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# Compliance History Report

Compliance History Report for CN604291260, RN111507562, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN604291260, Canyon Creek Custom Homes LLC  
**Classification:** UNCLASSIFIED  
**Rating:** -----

**Regulated Entity:** RN111507562, BYRUM RANCH PHASE 1  
**Classification:** UNCLASSIFIED  
**Rating:** -----

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

**CH Group:** 09 - Construction

**Location:** Ozro Road and Farm-to-Market Highway 157 in Maypearl, Ellis County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**  
**STORMWATER PERMIT TXR1510NI**

**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.

N/A

### **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  
CANYON CREEK CUSTOM HOMES LLC  
RN111507562

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

## AGREED ORDER DOCKET NO. 2023-1035-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 Canyon Creek Custom Homes 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 at Ozro Road and Farm-to-Market Highway 157 in Maypearl, Ellis 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 \$10,875 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$265 of the penalty and \$2,175 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 \$8,435 of the undeferred penalty shall be paid in 35 monthly payments of \$241 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. By June 21, 2023, developed and implemented a stormwater pollution prevention plan, and submitted a Notice of Intent to discharge stormwater associated with construction activities under Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit No. TXR1510NI;
  - b. By August 9, 2023, achieved final stabilization at the Site; and
  - c. By August 9, 2023, removed and disposed of the accumulated sediment from the ditch and culverts.

## II. ALLEGATIONS

During an investigation at the Site conducted on April 20, 2023, an investigator documented that the Respondent:

1. Failed maintain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under TPDES General Permit No. TXR1515JH expired on March 5, 2023, and the Respondent continued to operate.
2. Failed to properly select, install, and maintain control measures according to good engineering practices, and the manufacturer's or designer's specifications, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR150000, Part III, Section F.2(a)ii. Specifically, the Site contained no evidence of control measures.
3. Failed to remove accumulations of sediment at a frequency that minimizes off-site impacts, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a),

and TPDES General Permit No. TXR150000, Part III, Section F.6(d). Specifically, an accumulation of sediment was noted in the culvert and the adjacent ditch.

### **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: Canyon Creek Custom Homes LLC, Docket No. 2023-1035-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. 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

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For the Commission

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Date

  
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For the Executive Director

7/18/2024

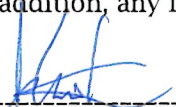
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Date

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.

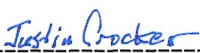
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- 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

  
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Date

  
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Name (Printed or typed)  
Authorized Representative of  
Canyon Creek Custom Homes LLC

  
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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.