

**Executive Summary – Enforcement Matter – Case No. 64601**  
**D D T EXCAVATING AND SITE WORK, INC.**  
**RN109622126**  
**Docket No. 2023-1155-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

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

DDT Excavating and Sitework, 7309 Farm-to-Market Road 2403, Alvin, Brazoria County

**Type of Operation:**

Aggregate production operation (“APO”)

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 26, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,563

**Amount Deferred for Expedited Settlement:** \$3,112

**Total Paid to General Revenue:** \$12,451

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** \$3,700

**Applicable Penalty Policy:** January 2021

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** January 12, 2023

**Date(s) of NOE(s):** March 21, 2023

**Executive Summary – Enforcement Matter – Case No. 64601**  
**D D T EXCAVATING AND SITE WORK, INC.**  
**RN109622126**  
**Docket No. 2023-1155-WQ-E**

***Violation Information***

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0003208 expired on January 27, 2023, and the Respondent continued to operate [30 TEX ADMIN. CODE § 342.25(d)].
2. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05EW73 expired on August 14, 2021, and the Respondent continued to operate [30 TEX. ADMIN CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
3. Failed to prevent an unauthorized discharge of other waste into or adjacent to any water in the state. Specifically, the Respondent was dewatering stormwater from a dry mining pit to Pleasant Bayou [TEX. WATER CODE § 26.121(a)(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. By February 28, 2023, submitted an application and obtained APO Registration No. AP0003208;
- b. By February 1, 2023, obtained approval to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05FY83; and
- c. By February 1, 2023, developed and implemented a stormwater pollution prevention plan.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Mark Gamble, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2587; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Theron C. Flora, President, D D T EXCAVATING AND SITE WORK, INC., 2300 South Bypass 35, Suite A, Alvin, Texas 77511

**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>	27-Mar-2023	
	<b>PCW</b>	16-Jan-2024	<b>Screening</b> 24-Aug-2023 <b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	D D T EXCAVATING AND SITE WORK, INC. PCW No. 1 of 2		
<b>Reg. Ent. Ref. No.</b>	RN109622126		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	64601	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-1155-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Aggregate Production Operation	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Mark Gamble
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$5,000	<b>Maximum</b>	\$20,000
		<b>Violation Maximum</b>	\$40,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	-10.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$200
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<b>Notes</b>	Reduction for High Performer classification.			
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<b>Culpability</b>	No	0.0%	Enhancement	<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>	-\$500
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$5	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,106	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
<b>Final Penalty Amount</b>	\$1,300

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,000
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<b>Notes</b>	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.	
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$1,000
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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>	\$4,000
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Screening Date24-Aug-2023

RespondentD D T EXCAVATING AND SITE WORK, INC. PCW No. 1 of 2

Case ID No.64601

Reg. Ent. Reference No.RN109622126

MediaAggregate Production Operation

Enf. CoordinatorMark Gamble

Docket No.2023-1155-WQ-E

PCW

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)

No

Adjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7)-10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)-10%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%-10%

<b>Screening Date</b>	24-Aug-2023	<b>Docket No.</b>	2023-1155-WQ-E	<b>PCW</b>
<b>Respondent</b>	D D T EXCAVATING AND SITE WORK, INC. PCW No. 1 of 2			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	64601			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN109622126			
<b>Media</b>	Aggregate Production Operation			
<b>Enf. Coordinator</b>	Mark Gamble			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 342.25(d)			
<b>Violation Description</b>	Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued. Specifically, APO Registration No. AP0003208 expired on January 27, 2023, and the Respondent continued to operate.			
		<b>Base Penalty</b>	\$20,000	
>> Environmental, Property and Human Health Matrix				
OR	<b>Release</b>	Major	Moderate	Minor
	Actual			
	Potential			
			<b>Percent</b>	0.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
			<b>Percent</b>	10.0%
Matrix Notes	100% of the rule requirement was not met.			
		<b>Adjustment</b>	\$18,000	
			\$2,000	
Violation Events				
	Number of Violation Events	1	32	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
	Violation Base Penalty \$2,000			
	One single event is recommended.			
Good Faith Efforts to Comply		25.0%	Reduction	\$500
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary	x		
	N/A			
	Notes	The Respondent achieved compliance on February 28, 2023.		
		<b>Violation Subtotal</b>	\$1,500	
Economic Benefit (EB) for this violation		Statutory Limit Test		
	<b>Estimated EB Amount</b>	\$5	<b>Violation Final Penalty Total</b>	\$1,300
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$5,000

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. D D T EXCAVATING AND SITE WORK, INC. PCW No. 1 of 2 64601 RN109622126 Aggregate Production Operation 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	\$1,106	27-Jan-2023	28-Feb-2023	0.09	\$5	n/a	\$5
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Actual Permit cost to register the Site as an APO and renew APO Registration No. AP0003208. The Date Required is the date APO Registration No. AP0003208 expired, and the Final Date is the date of compliance.						

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

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

Approx. Cost of Compliance	\$1,106	TOTAL	\$5
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# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	27-Mar-2023		
	<b>PCW</b>	16-Jan-2024	<b>Screening</b>	24-Aug-2023
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>				
<b>Respondent</b>	D D T EXCAVATING AND SITE WORK, INC. PCW No. 2 of 2			
<b>Reg. Ent. Ref. No.</b>	RN109622126			
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor	

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	64601	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2023-1155-WQ-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>	Aggregate Production Operation	<b>Enf. Coordinator</b>	Mark Gamble	
		<b>EC's Team</b>	Enforcement Team 1	
<b>Admin. Penalty \$</b>	<b>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>	\$16,250
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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>	-10.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$1,625
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<b>Notes</b>	Reduction for High Performer classification.			
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<b>Culpability</b>	No	0.0%	Enhancement	<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>	-\$4,062
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$167	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,725	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$10,563
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>		<b>Final Penalty Amount</b>	\$10,563
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,563
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$2,112
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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>	\$8,451
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Screening Date

24-Aug-2023

Docket No.

2023-1155-WQ-E

PCW

Respondent

D D T EXCAVATING AND SITE WORK, INC. PCW No. 2 of 2

Case ID No.

64601

Reg. Ent. Reference No.

RN109622126

Media

Water Quality

Enf. Coordinator

Mark Gamble

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)

No

Adjustment Percentage (Subtotal 3)

0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7)

-10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

-10%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

-10%



<b>Screening Date</b>	24-Aug-2023	<b>Docket No.</b>	2023-1155-WQ-E	<b>PCW</b>
<b>Respondent</b>	D D T EXCAVATING AND SITE WORK, INC. PCW No. 2 of 2			Policy Revision 5 (January 28, 2021)
<b>Case ID No.</b>	64601			PCW Revision February 11, 2021
<b>Reg. Ent. Reference No.</b>	RN109622126			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Mark Gamble			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)			
<b>Violation Description</b>	Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05EW73 expired on August 14, 2021, and the Site continued to operate.			
		<b>Base Penalty</b>	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR	<b>Release</b>	<b>Harm</b>		
		Major Moderate Minor		
	Actual			
	Potential			
			<b>Percent</b>	0.0%
>> Programmatic Matrix				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
		x		
			<b>Percent</b>	10.0%
Matrix Notes	100% of the rule requirements were not met.			
		<b>Adjustment</b>	\$22,500	
			\$2,500	
Violation Events				
	Number of Violation Events	5	446	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
			<b>Violation Base Penalty</b>	\$12,500
	Five quarterly events are recommended from the November 12, 2021 permit application grace period end date to the February 1, 2023 compliance date.			
<b>Good Faith Efforts to Comply</b>	25.0%		<b>Reduction</b>	\$3,125
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary	x		
	N/A			
	Notes	The Respondent achieved compliance on February 1, 2023.		
		<b>Violation Subtotal</b>	\$9,375	
Economic Benefit (EB) for this violation				
	<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>	\$167	<b>Violation Final Penalty Total</b>	\$8,125	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$8,125		

# Economic Benefit Worksheet

Respondent

Case ID No.

Reg. Ent. Reference No.

Media

Violation No.

D D T EXCAVATING AND SITE WORK, INC. PCW No. 2 of 2  
64601  
RN109622126  
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	\$225	12-Nov-2021	1-Feb-2023	1.22	\$14	n/a	\$14
Other (as needed)	\$2,500	12-Nov-2021	1-Feb-2023	1.22	\$153	n/a	\$153
Notes for DELAYED costs	Actual Permit Cost to submit a Notice of Intent ("NOI") to obtain authorization to discharge stormwater. The Date Required is the end of the permit renewal grace period date, and the Final Date is the date of compliance.  Estimated Other (as needed) Cost to develop and implement a stormwater pollution prevention plan. The Date Required is the end of the permit renewal grace period 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	\$2,725	TOTAL	\$167
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<b>Screening Date</b>		24-Aug-2023		<b>Docket No.</b> 2023-1155-WQ-E		<b>PCW</b>	
<b>Respondent</b>		D D T EXCAVATING AND SITE WORK, INC. PCW No. 2 of 2				<i>Policy Revision 5 (January 28, 2021)</i>	
<b>Case ID No.</b>		64601				<i>PCW Revision February 11, 2021</i>	
<b>Reg. Ent. Reference No.</b>		RN109622126					
<b>Media</b>		Water Quality					
<b>Enf. Coordinator</b>		Mark Gamble					
<b>Violation Number</b>		<input type="text" value="2"/>					
<b>Rule Cite(s)</b>		<input type="text" value="Tex. Water Code § 26.121(a)(2)"/>					
<b>Violation Description</b>		<input type="text" value="Failed to prevent an unauthorized discharge of other waste into or adjacent to any water in the state. Specifically, the Respondent was dewatering stormwater from a dry mining pit to Pleasant Bayou."/>					
<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" value="x"/>			
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b>	<input type="text" value="15.0%"/>	
<b>&gt;&gt;Programmatic Matrix</b>							
	Falsification	Major	Moderate	Minor			
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b>	<input type="text" value="0.0%"/>	
Matrix Notes	<input type="text" value="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>						<input type="text" value="\$21,250"/>	
						<input type="text" value="\$3,750"/>	
<b>Violation Events</b>							
Number of Violation Events		<input type="text" value="1"/>		<input type="text" value="20"/>		Number of violation days	
	daily	<input type="text"/>					
	weekly	<input type="text"/>					
	monthly	<input type="text"/>					
	quarterly	<input type="text" value="x"/>		<b>Violation Base Penalty</b> <input type="text" value="\$3,750"/>			
	semiannual	<input type="text"/>					
	annual	<input type="text"/>					
	single event	<input type="text"/>					
<input type="text" value="One quarterly event is recommended from the January 12, 2023 investigation date to the February 1, 2023 compliance date."/>							
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>		<b>Reduction</b>		<input type="text" value="\$937"/>	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer				
	Extraordinary	<input type="text"/>					
	Ordinary	<input type="text" value="x"/>					
	N/A	<input type="text"/>					
	Notes	<input type="text" value="The Respondent achieved compliance on February 1, 2023."/>					
<b>Violation Subtotal</b>						<input type="text" value="\$2,813"/>	
<b>Economic Benefit (EB) for this violation</b>				<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$0"/>		<b>Violation Final Penalty Total</b>		<input type="text" value="\$2,438"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>						<input type="text" value="\$2,438"/>	

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. D D T EXCAVATING AND SITE WORK, INC. PCW No. 2 of 2 64601 RN109622126 Water Quality 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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Included in Economic Benefit No. 1.						

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	\$0	TOTAL	\$0
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The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN604912659, RN109622126, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604912659, D D T EXCAVATING AND SITE WORK, INC.	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Regulated Entity:</b>	RN109622126, DDT EXCAVATING AND SITEWORK	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	6	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	7309 Farm-to-Market Road 2403, Alvin, Brazoria County, Texas		
<b>TCEQ Region:</b>	REGION 12 - HOUSTON		
<b>ID Number(s):</b>	STORMWATER PERMIT TXR05FY83		
<b>Compliance History Period:</b>	September 01, 2018 to August 31, 2023	<b>Rating Year:</b> 2023	<b>Rating Date:</b> 09/01/2023
<b>Date Compliance History Report Prepared:</b>	April 26, 2024		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	April 26, 2019 to April 26, 2024		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Mark Gamble		<b>Phone:</b> (512) 239-2587

## Site and Owner/Operator History:

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

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

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

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

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  
D D T EXCAVATING AND SITE WORK,  
INC.  
RN109622126

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

## AGREED ORDER DOCKET NO. 2023-1155-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 D D T EXCAVATING AND SITE WORK, INC. (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is an operator, as defined in TEX. WATER CODE § 28A.001(4), of an aggregate production operation ("APO") located at 7309 Farm-to-Market Road 2403 in Alvin, Brazoria County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26 and 28A and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$15,563 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$12,451 of the penalty and \$3,112 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 February 28, 2023, submitted an application and obtained APO Registration No. AP0003208; and
  - b. By February 1, 2023, obtained approval to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05FY83.
  - c. By February 1, 2023, developed and implemented a stormwater pollution prevention plan.

## II. ALLEGATIONS

During an investigation at the Site conducted on January 12, 2023, an investigator documented that the Respondent:

1. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX ADMIN. CODE § 342.25(d). Specifically, APO Registration No. AP0003208 expired on January 27, 2023, and the Respondent continued to operate.
2. Failed to maintain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under TPDES MSGP No. TXR05EW73 expired on August 14, 2021, and the Respondent continued to operate.
3. Failed to prevent an unauthorized discharge of other waste into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(2). Specifically, the Respondent was dewatering stormwater from a dry mining pit to Pleasant Bayou.



### 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: D D T EXCAVATING AND SITE WORK, INC., Docket No. 2023-1155-WQ-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting,

lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-----  
For the Commission

-----  
Date



7/22/2024

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For the Executive Director

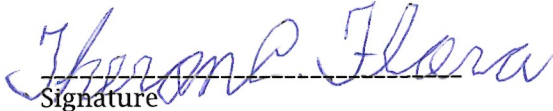
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Date

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.

  
-----  
Signature

06/28/2024  
-----  
Date

  
-----

President  
-----  
Title

Name (Printed or typed)  
Authorized Representative of  
D D T EXCAVATING AND SITE WORK, 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.