

**Executive Summary – Enforcement Matter – Case No. 64724**

**J & S Materials, LLC**

**RN107695264**

**Docket No. 2023-1266-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - WQ

**Small Business:**

Yes

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

J&S Materials, 22592 Highway 16 South, Von Ormy, Bexar County

**Type of Operation:**

Aggregate production operation (“APO”)

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** June 14, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$25,062

**Amount Deferred for Expedited Settlement:** \$5,012

**Total Paid to General Revenue:** \$20,050

**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:** \$3,360

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** June 2, 2023

**Complaint Information:** Alleged the Respondent was discharging sediment onto Texas Highway 16 where the sediment discharge had dried up, causing visibility issues.

**Date(s) of Investigation:** June 14, 2023

**Date(s) of NOE(s):** August 24, 2023

**Executive Summary – Enforcement Matter – Case No. 64724**

**J & S Materials, LLC**

**RN107695264**

**Docket No. 2023-1266-MLM-E**

***Violation Information***

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0003218 expired on February 11, 2023, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].

2. Failed to install and maintain best management practices at the Site, resulting in an unauthorized discharge. Specifically, the absorbent socks were heavily laden with sediment and partially buried, and the bull rock was not present or mostly buried in sediment. Additionally, a significant amount of sediment was noted discharging from the Site exit and along the east side of the northbound lane of Texas State Highway 16 South for approximately 100 yards [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(2), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05DX15, Part III. A.4(a)(9) and (10)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By July 28, 2023, the Respondent renewed APO Registration No. AP0003218 at the Site.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, install and maintain best management practices;
- b. Within 45 days, submit written certification to demonstrate compliance with a.;
- c. Within 60 days, remove the sediment from the Site exit and along the east side of the northbound lane of United States Highway 16 South; and
- 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:** Jose Regalado, Chief Executive Officer, J & S Materials, LLC, 8023 Vantage Drive, Suite 1410, San Antonio, Texas 78230

**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 PCW</b>	28-Aug-2023	<b>Screening</b>	6-Sep-2023	<b>EPA Due</b>	
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	J & S Materials, LLC PCW No. 1 of 2
<b>Reg. Ent. Ref. No.</b>	RN107695264
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	64724	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-1266-MLM-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>	Harley Hobson
		<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>	<b>\$2,000</b>
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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>7.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$140</b>
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Notes: Enhancement for one NOV with the same/similar violations and one NOV with dissimilar violations.

<b>Culpability</b>	<b>No</b>	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$500</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$11  
 Estimated Cost of Compliance: \$500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,640</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,640</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,000</b>
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Notes: The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.

<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$1,000</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$4,000</b>
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Screening Date 6-Sep-2023

Docket No. 2023-1266-MLM-E

PCW

Respondent J & S Materials, LLC PCW No. 1 of 2

Policy Revision 5 (January 28, 2021)

Case ID No. 64724

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN107695264

Media Aggregate Production Operation

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	1	2%
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)** 7%

#### >> 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 and one NOV with dissimilar violations.

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

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 7%

Screening Date 6-Sep-2023

Docket No. 2023-1266-MLM-E

PCW

Respondent J & S Materials, LLC PCW No. 1 of 2

Policy Revision 5 (January 28, 2021)

Case ID No. 64724

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN107695264

Media Aggregate Production Operation

Enf. Coordinator Harley Hobson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25(d)

Violation Description Failed to renew the Aggregate Production Operation ("APO") registration annually as regulated activities continued. Specifically, APO Registration No. AP0003218 expired on February 11, 2023, and the Respondent continued to operate.

Base Penalty \$20,000

>> 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 requirement was not met.

Adjustment \$18,000

\$2,000

Violation Events

Number of Violation Events 1

167 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 July 28, 2023.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$1,640

This violation Final Assessed Penalty (adjusted for limits) \$5,000

# Economic Benefit Worksheet

**Respondent** J & S Materials, LLC PCW No. 1 of 2  
**Case ID No.** 64724  
**Reg. Ent. Reference No.** RN107695264  
**Media Violation No.** 1 Aggregate Production Operation

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	\$500	12-Feb-2023	28-Jul-2023	0.45	\$11	n/a	\$11
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated Permit cost to register the Site as an APO. The Date Required is the registration due 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**

\$500

**TOTAL**

\$11



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	28-Aug-2023	<b>Screening</b>	6-Sep-2023	<b>EPA Due</b>	
	<b>PCW</b>	5-Sep-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	J & S Materials, LLC PCW No. 2 of 2
<b>Reg. Ent. Ref. No.</b>	RN107695264
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	64724	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-1266-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	APO	<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>	<b>\$18,750</b>
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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>7.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$1,312</b>
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Notes: Enhancement for one NOV with the same/similar violations and one NOV with dissimilar violations.

<b>Culpability</b>	<b>No</b>	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$213  
 Estimated Cost of Compliance: \$4,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$20,062</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$20,062</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$20,062</b>
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<b>DEFERRAL</b>	<b>20.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	<b>-\$4,012</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$16,050</b>
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**Screening Date** 6-Sep-2023

**Docket No.** 2023-1266-MLM-E

**PCW**

**Respondent** J & S Materials, LLC PCW No. 2 of 2

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 64724

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN107695264

**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	1	2%
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)** 7%

#### >> 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 and one NOV with dissimilar violations.

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

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 7%



**Screening Date** 6-Sep-2023 **Docket No.** 2023-1266-MLM-E **PCW**  
**Respondent** J & S Materials, LLC PCW No. 2 of 2 *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 64724 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN107695264  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin Code § 281.25(a)(4), Tex. Water Code § 26.121(a)(2), and Texas Pollutant Discharge Elimination System General Permit No. TXR05DX15, Part III. A.4(a)(9) and (10)

**Violation Description**  
 Failed to install and maintain best management practices at the Site, resulting in an unauthorized discharge. Specifically, the absorbent socks were heavily laden with sediment and partially buried, and the bull rock was not present or mostly buried in sediment. Additionally, a significant amount of sediment was noted discharging from the Site exit and along the east side of the northbound lane of United States Highway 16 South for approximately 100 yards.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<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 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**

Three monthly events are recommended from the June 14, 2023 Investigation date to the September 6, 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** J & S Materials, LLC PCW No. 2 of 2  
**Case ID No.** 64724  
**Reg. Ent. Reference No.** RN107695264  
**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	\$2,000	14-Jun-2023	20-Apr-2024	0.85	\$6	\$114	\$120
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	\$2,000	14-Jun-2023	20-May-2024	0.93	\$93	n/a	\$93
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 and maintain BMPs. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Estimated Remediation/Disposal cost to remove the sediment. The Date Required is the 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 \$4,000

**TOTAL** \$213



# Compliance History Report

Compliance History Report for CN605172923, RN107695264, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN605172923, J & S Materials, LLC      **Classification:** SATISFACTORY      **Rating:** 1.25  
**Regulated Entity:** RN107695264, J&S MATERIALS      **Classification:** SATISFACTORY      **Rating:** 0.78  
**Complexity Points:** 8      **Repeat Violator:** NO  
**CH Group:** 04 - Mining  
**Location:** 22592 Highway 16 South, Unit 5 in Von Ormy, Bexar County, Texas  
**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

**AGGREGATE PRODUCTION OPERATION REGISTRATION**      **AIR NEW SOURCE PERMITS REGISTRATION** 154953

AP0003218

**AIR NEW SOURCE PERMITS** AFS NUM 4802900719

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 88558

**STORMWATER PERMIT** TXR05DX15

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER** BGA032F

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

**Date Compliance History Report Prepared:** November 07, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 07, 2018 to November 07, 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?      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.):**

Item 1      July 11, 2021      (1736660)

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

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

- 1      Date:      04/28/2023      (1872942)  
Self Report?      NO      Classification:      Moderate  
Citation:      30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
MSGP, Part III, Section B.2.c PERMIT  
Description:      Failure to properly conduct routine facility inspections.  
Self Report?      NO      Classification:      Minor  
Citation:      30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
TXR050000 Part III.A.4(a)(9) PERMIT  
Description:      Failure to prevent offsite sediment discharge. (Category B18(p)(4) Violation)
  
- 2      Date:      08/30/2023      (1911977)  
Self Report?      NO      Classification:      Minor  
Citation:      30 TAC Chapter 106, SubChapter A 106.4(c)  
30 TAC Chapter 106, SubChapter E 106.143

30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to use adequate dust suppression measures on in-plant roads to achieve maximum control of dust emissions.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter A 101.4  
5C THSC Chapter 382 382.085(b)  
Description: Failure to not discharging from any source one or more air contaminants in such concentration and of such duration as to interfere with the normal use and enjoyment of property.

**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  
J & S MATERIALS, LLC  
RN107695264

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-1266-MLM-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 J & S Materials, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is an operator, as defined in TEX. WATER CODE § 28A.001(4), of an aggregate production operation ("APO") located at 22592 Highway 16 South in Von Ormy, Bexar 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 \$25,062 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$20,050 of the penalty and \$5,012 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 by July 28, 2023, the Respondent renewed Aggregate Production Operation ("APO") Registration No. AP0003218 at the Site.

## **II. ALLEGATIONS**

During an investigation at the Site conducted on June 14, 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. AP0003218 expired on February 11, 2023, and the Respondent continued to operate.
2. Failed to install and maintain best management practices at the Site, resulting in an unauthorized discharge, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(2), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05DX15, Part III. A.4(a)(9) and (10). Specifically, the absorbent socks were heavily laden with sediment and partially buried, and the bull rock was not present or mostly buried in sediment. Additionally, a significant amount of sediment was noted discharging from the Site exit and along the east side of the northbound lane of United States Highway 16 South for approximately 100 yards.

## **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: J & S Materials, LLC, Docket No. 2023-1266-MLM-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, install and maintain BMPs in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05DX15, Part III. A.4(a)(9) and (10).
  - 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, remove the sediment from the Site exit and along the east side of the northbound lane of United States Highway 16 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 No. 2.c. 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  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-----  
For the Commission

-----  
Date

  
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For the Executive Director

6/24/2024

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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.

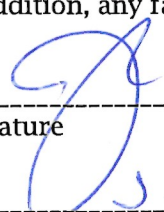
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- 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

  
-----  
Name (Printed or typed)  
Authorized Representative of  
J & S Materials, LLC

-----  
Title

4.30.24

CEO

*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.