

Executive Summary – Enforcement Matter – Case No. 64758
Kasparian Underground, LLC
RN104088620
Docket No. 2023-1354-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Hirsch Pit, 5695 South 3rd Street, Waco, McLennan 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: \$25,075

Amount Deferred for Expedited Settlement: \$5,015

Total Paid to General Revenue: \$20,060

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: \$6,159

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 18, 2022

Date(s) of NOE(s): September 2, 2022

Executive Summary – Enforcement Matter – Case No. 64758
Kasparian Underground, LLC
RN104088620
Docket No. 2023-1354-WQ-E

Violation Information

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0003153 expired on November 21, 2020, and 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. TXR05EM67 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)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By August 1, 2022, submitted an application and obtained APO Registration No. AP0000361; and
- b. By August 1, 2022, obtained approval to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05FT73 and developed and implemented a stormwater pollution prevention plan.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Monica Larina, Enforcement Division, Enforcement Team 1, MC R-14, (361) 881-6965; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Allen C. Kasparian, President, Kasparian Underground, LLC, 7901 Fish Pond Road, Suite 100, Waco, Texas 76710

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Sep-2022			
	PCW	8-Nov-2023	Screening	6-Sep-2023	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Kasparian Underground, LLC PCW No. 1 of 2				
Reg. Ent. Ref. No.	RN104088620				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	64758	No. of Violations	1		
Docket No.	2023-1354-WQ-E	Order Type	1660		
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No		
Multi-Media	Water Quality	Enf. Coordinator	Monica Larina		
		EC's Team	Enforcement Team 1		
Admin. Penalty \$	Limit Minimum	\$5,000	Maximum	\$20,000	Violation Maximum
					\$40,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
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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.

Compliance History	-8.0%	Adjustment	Subtotals 2, 3, & 7	-\$320
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Notes	Reduction for High Performer classification. Enhancement for one NOV with dissimilar violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,000
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,199	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,212	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,680
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OTHER FACTORS AS JUSTICE MAY REQUIRE	43.3%	Adjustment	\$1,161
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with the violation.
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Final Penalty Amount	\$3,841
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
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Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$8,000
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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	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)

2%

>> 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. Enhancement for one NOV with dissimilar violations.

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

-8%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

-8%

Screening Date	6-Sep-2023	Docket No.	2023-1354-WQ-E	PCW	
Respondent	Kasparian Underground, LLC PCW No. 1 of 2			<i>Policy Revision 5 (January 28, 2021)</i>	
Case ID No.	64758	<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No.	RN104088620				
Media	Aggregate Production Operation				
Enf. Coordinator	Monica Larina				
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. AP0003153 expired on November 21, 2020, and 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		2	618	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			
Violation Base Penalty					\$4,000
Two single events are recommended.					
Good Faith Efforts to Comply		25.0%	Reduction		\$1,000
		Before NOE/NOV	NOE/NOV to EDP RP/Settlement Offer		
	Extraordinary				
	Ordinary	x			
	N/A				
	Notes	The Respondent achieved compliance on August 1, 2022.			
Violation Subtotal				\$3,000	
Economic Benefit (EB) for this violation					
Statutory Limit Test					
Estimated EB Amount		\$1,199	Violation Final Penalty Total		\$3,841
This violation Final Assessed Penalty (adjusted for limits)				\$10,000	

Economic Benefit Worksheet

Respondent Kasparian Underground, LLC PCW No. 1 of 2
Case ID No. 64758
Reg. Ent. Reference No. RN104088620
Media Aggregate Production Operation
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	\$1,106	21-Nov-2021	1-Aug-2022	0.69	\$38	n/a	\$38
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to register the Site as an APO. Date Required is the second missed APO registration renewal deadline 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	\$1,106	21-Nov-2020	21-Nov-2021	1.00	\$55	\$1,106	\$1,161
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated Avoided Cost to renew the first APO registration and associated interest. Date Required is the missed APO registration renewal date and the Final Date is its missed expiration date.						

Approx. Cost of Compliance	\$2,212	TOTAL	\$1,199
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Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Sep-2022			
	PCW	9-Nov-2023	Screening	6-Sep-2023	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Kasparian Underground, LLC PCW 2 of 2				
Reg. Ent. Ref. No.	RN104088620				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	64758	No. of Violations	1		
Docket No.	2023-1354-WQ-E	Order Type	1660		
Media Program(s)	Water Quality	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Monica Larina		
		EC's Team	Enforcement Team 1		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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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.

Compliance History	-8.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,800
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Notes	Reduction for High Performer classification. Enhancement for one NOV with dissimilar violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$5,625
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$98	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,725	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,075
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$15,075
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,075
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,015
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$12,060
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Screening Date

6-Sep-2023

Docket No.

2023-1354-WQ-E

PCW

Respondent

Kasparian Underground, LLC

Case ID No.

64758

Reg. Ent. Reference No.

RN104088620

Media

Water Quality

Enf. Coordinator

Monica Larina

PCW 2 of 2

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	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)2%

>> 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. Enhancement for one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)-8%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%-8%

Screening Date 6-Sep-2023		Docket No. 2023-1354-WQ-E		PCW	
Respondent Kasparian Underground, LLC PCW 2 of 2		<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No. 64758		<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No. RN104088620					
Media Water Quality					
Enf. Coordinator Monica Larina					
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 industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05EM67 expired on August 14, 2021, 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		9	262	Number of violation days	
	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event				
Violation Base Penalty					\$22,500
Nine monthly events are recommended from the November 12, 2021 permit application grace period end date to the August 1, 2022 compliance date.					
Good Faith Efforts to Comply		25.0%	Reduction		\$5,625
	Extraordinary		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer		
	Ordinary	x			
	N/A				
	Notes	The Respondent achieved compliance on August 1, 2022.			
Violation Subtotal					\$16,875
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$98	Violation Final Penalty Total		\$15,075
This violation Final Assessed Penalty (adjusted for limits)					\$15,075

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. Kasparian Underground, LLC PCW 2 of 2 64758 RN104088620 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-Aug-2022	0.72	\$8	n/a	\$8
Other (as needed)	\$2,500	12-Nov-2021	1-Aug-2022	0.72	\$90	n/a	\$90
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 cost (as needed) 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	\$98
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Compliance History Report

Compliance History Report for CN605642149, RN104088620, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN605642149, Kasparian Underground, LLC
Classification: HIGH
Rating: 0.00

Regulated Entity: RN104088620, HIRSCH PIT
Classification: HIGH
Rating: 0.00

Complexity Points: 3
Repeat Violator: NO

CH Group: 04 - Mining

Location: 5695 South 3rd Street Road, Waco, McLennan County, Texas

TCEQ Region: REGION 09 - WACO

ID Number(s):
STORMWATER PERMIT TXR05FT73
AGGREGATE PRODUCTION OPERATION REGISTRATION AP0000361
AIR NEW SOURCE PERMITS REGISTRATION 71852

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

Date Compliance History Report Prepared: May 03, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 03, 2019 to May 03, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Monica Larina
Phone: (512) 239-0184

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 31, 2023 (1922530)
Item 2 March 25, 2024 (1982013)

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: 11/07/2023 (1937874)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
MSGP; Part III; Section A(4)(g) PERMIT
Description: Failure to maintain required data in the facility's storm water pollution
prevention plan (SWP3).

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) MSGP; Part III; Section B(3) PERMIT		
Description:	Failure to conduct required monitoring or testing.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) MSGP; Part III; Section A(4)(A) PERMIT		
Description:	Failure to maintain required data in the facility's storm water pollution prevention plan (SWP3).		

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
KASPARIAN UNDERGROUND, LLC
RN104088620

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

AGREED ORDER DOCKET NO. 2023-1354-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 Kasparian Underground, 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 owner and operator, as defined in TEX. WATER CODE § 28A.001(5) and (4), of an aggregate production operation ("APO") located at 5695 South 3rd Street in Waco, McLennan County, Texas (the "Site"). The Site is near or adjacent to the water in the state as defined in TEX. WATER CODE § 26.001(5). 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).
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 \$25,075 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$20,060 of the penalty and \$5,015 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 August 1, 2022, submitted an application and obtained APO Registration No. AP0000361; and
 - b. By August 1, 2022, obtained approval to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05FT73 and developed and implemented a stormwater pollution prevention plan.

II. ALLEGATIONS

During an investigation at the Site conducted on July 18, 2022, 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. AP0003153 expired on November 21, 2020, and 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. TXR05EM67 expired on August 14, 2021, and the Respondent continued to operate.

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: Kasparian Underground, LLC, Docket No. 2023-1354-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



For the Executive Director

7/22/2024

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

6-26-24

Date

ALLEN C. KASPARIAN JR.

Name (Printed or typed)
Authorized Representative of
Kasparian Underground, LLC

PRESIDENT

Title

☐ If mailing address has changed, please check this box and provide the new address below: