

**Executive Summary – Enforcement Matter – Case No. 64865**  
**Ames Construction, Inc.**  
**RN111290011**  
**Docket No. 2023-1394-WQ-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

WQ

**Small Business:**

No

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

BNSF Cleveland LC, 422 North Fostoria Road, Cleveland, Liberty County

**Type of Operation:**

Construction site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 10, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$37,500

**Total Paid to General Revenue:** \$37,500

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

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

**Complaint Information:** Alleged an unauthorized discharge.

**Date(s) of Investigation:** July 6, 2023

**Date(s) of NOE(s):** September 8, 2023

**Executive Summary – Enforcement Matter – Case No. 64865**  
**Ames Construction, Inc.**  
**RN111290011**  
**Docket No. 2023-1394-WQ-E**

***Violation Information***

1. Failed to obtain authorization to discharge stormwater associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
2. Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. By July 7, 2023, submitted a Notice of Intent to obtain authorization to discharge stormwater associated with construction activities under Texas Pollutant Discharge Elimination System General Permit No. TXR1553NM, and submitted a copy of the Stormwater Pollution Prevention Plan;
- b. By July 11, 2023, posted a site notice;
- c. By July 18, 2023, removed and remediated the accumulated sediment from Bee Branch; and
- d. By October 17, 2023, conducted employee training and began routine inspections to prevent unauthorized discharges of sediment-laden stormwater.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Taylor Williamson, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2097; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Raymond Ames, Chairman, Ames Construction, Inc., 2000 Ames Drive, Burnsville, Minnesota 55306

Trent Irick, Senior Vice President, Ames Construction, Inc., 2000 Ames Drive, Burnsville, Minnesota 55306

**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>	18-Sep-2023	
	<b>PCW</b>	3-Oct-2023	
	<b>Screening</b>	26-Sep-2023	
	<b>EPA Due</b>		

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Ames Construction, Inc.
<b>Reg. Ent. Ref. No.</b>	RN111290011
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>	
<b>Enf./Case ID No.</b>	64865
<b>Docket No.</b>	2023-1394-WQ-E
<b>Media Program(s)</b>	Water Quality
<b>Multi-Media</b>	
<b>No. of Violations</b>	2
<b>Order Type</b>	Findings
<b>Government/Non-Profit</b>	No
<b>Enf. Coordinator</b>	Taylor Williamson
<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>	\$42,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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<b>Notes</b>	No adjustments for compliance history.
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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>	-\$5,000
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$137  
Estimated Cost of Compliance \$25,225  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$37,500
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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>	\$37,500

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$37,500
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$37,500
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Screening Date

26-Sep-2023

Docket No.

2023-1394-WQ-E

PCW

Respondent

Ames Construction, Inc.

Case ID No.

64865

Reg. Ent. Reference No.

RN111290011

Media

Water Quality

Enf. Coordinator

Taylor Williamson

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)

Unclassified

Adjustment Percentage (Subtotal 7)0%

>> Compliance History Summary

Compliance History Notes

No adjustments for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)0%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%0%

Screening Date		26-Sep-2023		Docket No.		2023-1394-WQ-E		PCW	
Respondent		Ames Construction, Inc.		Policy Revision 5 (January 28, 2021)					
Case ID No.		64865		PCW Revision February 11, 2021					
Reg. Ent. Reference No.		RN111290011							
Media		Water Quality							
Enf. Coordinator		Taylor Williamson							
Violation Number		1							
Rule Cite(s)		30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)							
Violation Description		Failed to maintain authorization to discharge stormwater associated with construction activities. Specifically, authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR1505KK expired on March 7, 2023, and the Respondent continued to operate.							
				Base Penalty		\$25,000			
>> Environmental, Property and Human Health Matrix									
OR		Release		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		2		36		Number of violation days	
		daily							
		weekly							
		monthly		x					
		quarterly							
		semiannual							
		annual							
		single event							
				Violation Base Penalty		\$5,000			
		Two monthly events are recommended from the permit application grace period end date (June 5, 2023) to the compliance date (July 11, 2023).							
Good Faith Efforts to Comply		25.0%				Reduction		\$1,250	
		Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer					
Extraordinary									
Ordinary		x							
N/A									
Notes		The Respondent achieved compliance by July 11, 2023.							
				Violation Subtotal		\$3,750			
Economic Benefit (EB) for this violation					Statutory Limit Test				
Estimated EB Amount		\$50		Violation Final Penalty Total		\$3,750			
				This violation Final Assessed Penalty (adjusted for limits)		\$3,750			

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. Ames Construction, Inc. 64865 RN111290011 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				0.00	\$0	n/a	\$0
Other (as needed)	\$10,225	5-Jun-2023	11-Jul-2023	0.10	\$50	n/a	\$50
Notes for DELAYED costs	Estimated cost to submit a Notice of Intent ("NOI") to obtain authorization to discharge stormwater, develop and implement a stormwater pollution prevention plan, post a site notice, and submit a copy of the NOI to the receiving municipal separate storm sewer system. 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	\$10,225	TOTAL	\$50
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Screening Date

26-Sep-2023

Respondent

Ames Construction, Inc.

Case ID No.

64865

Reg. Ent. Reference No.

RN111290011

Media

Water Quality

Enf. Coordinator

Taylor Williamson

Docket No.

2023-1394-WQ-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

2

Rule Cite(s)

Tex. Water Code § 26.121(a)(2)

Violation Description

Failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state. Specifically, sediment-laden stormwater was being discharged into Bee Branch thence San Jacinto River Basin. The unauthorized discharge that was noted had a total suspended solids concentration of 3,053.6 milligrams per liter ("mg/L") and a total dissolved solids ("TDS") concentration of 730.0 mg/L. The water quality standards for Segment No. 1003 of the San Jacinto River Basin, the tributary downstream of the discharge, lists a TDS limit of 400 mg/L.

Base Penalty

\$25,000

>> Environmental, Property and Human Health Matrix

OR

Release

Major

Moderate

Minor

Actual

x

Potential

Percent

50.0%

>>Programmatic Matrix

Falsification

Major

Moderate

Minor

Percent

0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

\$12,500

\$12,500

Violation Events

Number of Violation Events

3

82

Number of violation days

daily

weekly

monthly

x

quarterly

semiannual

annual

single event

Violation Base Penalty

\$37,500

Three monthly events are recommended calculated from the investigation date (July 6, 2023) to the screening date (September 26, 2023).

Good Faith Efforts to Comply

10.0%

Reduction

\$3,750

Before NOE/NOV

NOE/NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

x

N/A

Notes

The Respondent achieved compliance by October 17, 2023.

Violation Subtotal

\$33,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$87

Violation Final Penalty Total

\$33,750

This violation Final Assessed Penalty (adjusted for limits)

\$33,750

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. Ames Construction, Inc. 64865 RN111290011 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	\$5,000	6-Jul-2023	17-Oct-2023	0.28	\$71	n/a	\$71
Remediation/Disposal	\$10,000	6-Jul-2023	18-Jul-2023	0.03	\$16	n/a	\$16
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated remediation cost to clean up the tributaries and remove accumulated sediment. The Date Required is the date of the investigation, and the Final Date is the date of compliance.  Estimated training cost to conduct employee training to prevent future unauthorized discharges. The Date Required is the date of the investigation, 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	\$15,000	TOTAL	\$87
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# Compliance History Report

Compliance History Report for CN602499824, RN111290011, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN602499824, Ames Construction, Inc. **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN111290011, BNSF CLEVELAND LC **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 6 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 422 NORTH FOSTORIA ROAD, CLEVELAND, LIBERTY COUNTY, TEXAS

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**STORMWATER PERMIT TXR1535NY** **STORMWATER PERMIT TXR1553NM**

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

**Date Compliance History Report Prepared:** February 21, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 21, 2019 to February 21, 2024

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Taylor Williamson **Phone:** (512) 239-2097

## Site and Owner/Operator History:

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

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

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

N/A

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

N/A

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

N/A

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

### **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  
AMES CONSTRUCTION, INC.  
RN111290011

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

## AGREED ORDER DOCKET NO. 2023-1394-WQ-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ames Construction, Inc. (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent operates a large construction site located at 422 North Fostoria Road in Cleveland, Liberty County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation at the Site conducted on July 6, 2023, an investigator documented that:
  - a. The Respondent did not maintain authorization to discharge stormwater associated with construction activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR1505KK expired on March 7, 2023, and the Respondent continued to operate.
  - b. The Respondent did not prevent an unauthorized discharge of sediment into or adjacent to any water in the state. Specifically, sediment-laden stormwater was being discharged into Bee Branch thence San Jacinto River Basin. The unauthorized discharge that was noted had a total suspended solids concentration of 3,053.6 milligrams per liter ("mg/L") and a total dissolved solids ("TDS") concentration of 730.0 mg/L. The water quality standards for

Segment No. 1003 of the San Jacinto River Basin, the tributary downstream of the discharge, lists a TDS limit of 400 mg/L.

3. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Site:
  - a. By July 7, 2023, submitted a Notice of Intent to obtain authorization to discharge stormwater associated with construction activities under TPDES General Permit No. TXR1553NM, and submitted a copy of the Stormwater Pollution Prevention Plan;
  - b. By July 11, 2023, posted a site notice;
  - c. By July 18, 2023, removed and remediated the accumulated sediment from Bee Branch; and
  - d. By October 17, 2023, conducted employee training and began routine inspections to prevent unauthorized discharges of sediment-laden stormwater.

## **II. CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., the Respondent failed to obtain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c).
3. As evidenced by Finding of Fact No. 2.b., the Respondent failed to prevent an unauthorized discharge of sediment into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(2).
4. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of \$37,500 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$37,500 penalty.

## **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be

constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ames Construction, Inc., Docket No. 2023-1394-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. 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 in this Order.
6. 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.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-----  
For the Commission

-----  
Date

5/28/2024

-----  
For the Executive Director

-----  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

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Signature

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3/15/2024

Date

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Trent Lack

Name (Printed or typed)

Authorized Representative of  
Ames Construction, Inc.

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Senior Vice President

Title

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

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.