

**Executive Summary – Enforcement Matter – Case No. 64934**  
**NKA Development, LLC**  
**RN111807277**  
**Docket No. 2023-1473-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:**

Yes

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

Woodland Creek, located south of County Road 41 and 0.55 mile east of County Road 431, Lindale, Smith County

**Type of Operation:**

Construction site

**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:** May 31, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$119,250

**Total Paid to General Revenue:** \$3,330

**Total Due to General Revenue:** \$115,920

Payment Plan: 35 payments of \$3,312 each

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** August 4, 2023

**Complaint Information:** Alleged concerns regarding a large construction site discharging sediment into an adjacent unnamed tributary.

**Date(s) of Investigation:** August 9, 2023 to August 16, 2023

**Date(s) of NOE(s):** September 28, 2023

**Executive Summary – Enforcement Matter – Case No. 64934**  
**NKA Development, LLC**  
**RN111807277**  
**Docket No. 2023-1473-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 September 11, 2023, obtained coverage under Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit No. TXR1596OH and submitted a copy of the Stormwater Pollution Prevention Plan; and
- b. By October 23, 2023, submitted documentation of a posted site notice.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Install and maintain Best Management Practices at the Site to prevent the unauthorized discharge of sediment; and
  - ii. Stabilize and remediate the bed and banks of the tributary that flows from the Site to Little Saline Creek.
- b. Within 45 days, submit written certification to demonstrate compliance with 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:** Nicholas Allegretto, Managing Member, NKA Development, LLC, 13280 County Road 472, Lindale, Texas 75771-7752

**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>	2-Oct-2023	<b>Screening</b>	11-Oct-2023	<b>EPA Due</b>	
	<b>PCW</b>	19-Dec-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	NKA Development, LLC
<b>Reg. Ent. Ref. No.</b>	RN111807277
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	2
<b>Enf./Case ID No.</b>	64934	<b>Order Type</b>	Findings
<b>Docket No.</b>	2023-1473-WQ-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Taylor Williamson
<b>Multi-Media</b>		<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>	\$120,000
---	-------------------	-----------

### 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
---------------------------	------	------------	--------------------------------	-----

Notes: No adjustments for compliance history.

<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------	-------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$750
--	-------------------	--------

<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	------	--------------	-------------------	-----

Total EB Amounts	\$638
Estimated Cost of Compliance	\$17,225

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$119,250
-----------------------------	-----------------------	-----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
---	------	------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: (Empty box)

<b>Final Penalty Amount</b>	\$119,250
-----------------------------	-----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$119,250
-----------------------------------	-------------------------------	-----------

<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
-----------------	------	-----------	------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$119,250
------------------------	-----------

Screening Date 11-Oct-2023

Docket No. 2023-1473-WQ-E

PCW

Respondent NKA Development, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 64934

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111807277

Media Water Quality

Enf. Coordinator Taylor Williamson

### 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)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

N/A

**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** 11-Oct-2023 **Docket No.** 2023-1473-WQ-E **PCW**  
**Respondent** NKA Development, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 64934 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111807277  
**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 obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System Construction General Permit ("CGP") No. TXR150000.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

100% of the rule requirements were not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events: 3      63 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

Three monthly events are recommended from the investigation start date on August 9, 2023 to the screening date on October 11, 2023.

**Good Faith Efforts to Comply** 10.0% Reduction \$750

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

**Notes** The Respondent achieved compliance by October 23, 2023.

**Violation Subtotal** \$6,750

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**

**Estimated EB Amount** \$22      **Violation Final Penalty Total** \$6,750

**This violation Final Assessed Penalty (adjusted for limits)** \$6,750

# Economic Benefit Worksheet

**Respondent** NKA Development, LLC  
**Case ID No.** 64934  
**Reg. Ent. Reference No.** RN111807277  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

## 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	9-Aug-2023	11-Sep-2023	0.09	\$1	n/a	\$1
Other (as needed)	\$2,000	9-Aug-2023	23-Oct-2023	0.21	\$21	n/a	\$21

### Notes for DELAYED costs

Estimated Permit Cost to submit a Notice of Intent ("NOI") to obtain authorization to discharge stormwater. The Date Required is the date of the investigation and the Final Date is the date of compliance.

Estimated Other Cost to develop and implement a stormwater pollution prevention plan and post a site notice. 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

\$2,225

**TOTAL**

\$22

<b>Screening Date</b>	11-Oct-2023	<b>Docket No.</b>	2023-1473-WQ-E	<b>PCW</b>
<b>Respondent</b>	NKA Development, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	64934			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN111807277			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Taylor Williamson			

**Violation Number**

**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, deposited sediment was observed in a tributary of Little Saline Creek downstream of the construction site with an estimated depth of over 20 inches for 0.32 miles in length from the Site. Limited water flow was observed due to the loss of capacity within the creek.

**Base Penalty**

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**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**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text" value="x"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Nine weekly events are recommended from the investigation start date on August 9, 2023 to the screening date on October 11, 2023.

**Good Faith Efforts to Comply**

Reduction

Before NOE/NOV    NOE/NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input 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** NKA Development, LLC  
**Case ID No.** 64934  
**Reg. Ent. Reference No.** RN111807277  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### 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	\$15,000	9-Aug-2023	4-Jun-2024	0.82	\$616	n/a	\$616
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated Remediation/Disposal Cost to stabilize and remediate the bed and banks of the tributary that flows from the Site to Little Saline Creek. 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**  
 (Empty box for notes)

**Approx. Cost of Compliance** \$15,000

**TOTAL** \$616



# Compliance History Report

Compliance History Report for CN606180339, RN111807277, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN606180339, NKA Development, LLC      **Classification:** NOT APPLICABLE      **Rating:** N/A

**Regulated Entity:** RN111807277, WOODLAND CREEK      **Classification:** NOT APPLICABLE      **Rating:** N/A

**Complexity Points:** N/A      **Repeat Violator:** N/A

**CH Group:** 09 - Construction

**Location:** South of County Road 41 and 0.55 miles east of County Road 431, Lindale, Smith County, Texas

**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):**  
STORMWATER PERMIT TXR1596OH

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

**Date Compliance History Report Prepared:** December 19, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 19, 2018 to December 19, 2023

## **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.):**

N/A

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

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

N/A

### **F. Environmental audits:**

N/A

### **G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NKA DEVELOPMENT, LLC  
RN111807277

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-1473-WQ-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NKA Development, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent 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 owns and operates a construction site located south of County Road 41 and 0.55 miles east of County Road 431 in Lindale, Smith 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 from August 9, 2023 through August 16, 2023, an investigator documented that:
  - a. The Respondent did not obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") Construction General Permit ("CGP") No. TXR150000.
  - b. The Respondent did not prevent an unauthorized discharge of sediment into or adjacent to any water in the state. Specifically, deposited sediment was observed in a tributary of Little Saline Creek downstream of the construction site with an estimated depth of over 20 inches for 0.32 miles in length from the Site. Limited water flow was observed due to the loss of capacity within the creek.

3. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Site:
  - a. By September 11, 2023, obtained coverage under TPDES CGP No. TXR1596OH and submitted a copy of the Stormwater Pollution Prevention Plan; and
  - b. By October 23, 2023, submitted documentation of a posted site notice.

## 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, 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, 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 \$119,250 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 \$3,330 of the penalty. The remaining amount of \$115,920 shall be paid in 35 monthly payments of \$3,312 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

## 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: NKA Development, LLC, Docket No. 2023-1473-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. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Order:
    - i. Install and maintain BMPs at the Site to prevent the unauthorized discharge of sediment, in accordance with the requirements of TPDES CGP No. TXR1596OH.
    - ii. Stabilize and remediate the bed and banks of the tributary that flows from the Site to Little Saline Creek.
  - 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 Nos. 2.a.i and 2.a.ii. 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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

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. 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.
7. 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.
8. 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.
9. 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.

10. 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

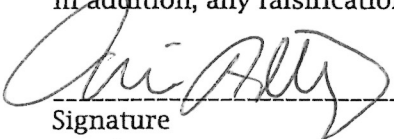
6/11/2024  
Date

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

5/3/24  
Date

Nicholas Adeyev  
Name (Printed or typed)  
Authorized Representative of  
NKA Development, LLC

Marketing Manager  
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.