

Executive Summary – Enforcement Matter – Case No. 64942
TBC - The Boring Company
RN111473534
Docket No. 2023-1489-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

The Boring, 130 Walker Watson Road, Bastrop, Bastrop 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: June 14, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,876

Amount Deferred for Expedited Settlement: \$2,375

Total Paid to General Revenue: \$9,501

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): March 16, 2023 and May 19, 2023

Complaint Information: Alleged of spoils piles, stormwater, signage for spoils piles, and subsurface excavation, and oily water discharged on the property.

Date(s) of Investigation: April 10, 2023

Date(s) of NOE(s): September 29, 2023

Executive Summary – Enforcement Matter – Case No. 64942
TBC - The Boring Company
RN111473534
Docket No. 2023-1489-WQ-E

Violation Information

1. Failed to design, install, and maintain erosion controls and sediment controls to minimize the discharge of pollutants. Specifically, there were no sediment controls for the temporary construction entrance and exit located at the northeast construction area [30 TEX. ADMIN. CODE § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXR1533JC, Part IV, Section A].
2. Failed to stabilize disturbed areas where clearing, grading, or earth-disturbing activities have ceased. Specifically, stabilization measures were not immediately implemented at the Site's utility construction disturbance along Farm-to-Market Road 1209 [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES Permit No. TXR1533JC, Part IV, Section B].
3. Failed to prevent the unauthorized discharge of concrete truck wash out water. Specifically, concrete truck wash out water residual was on the ground without structural controls at the northeast construction area [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. TXR1533JC, Part VI, Section B].
4. Failed to obtain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was performing industrial activities prior to obtaining authorization under TPDES Multi-Sector General Permit ("MSGP") No. TXR050000 [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 April 11, 2023, the Respondent installed silt fencing along the temporary construction entrance and exit at the northeast construction area;
- b. By April 11, 2023, the Respondent initiated soil stabilization at the site, and seeded approximately 16,000 square feet of the disturbed area;
- c. By June 6, 2023, removed the concrete truck wash out water residual from the Site; and
- d. By April 10, 2023, submitted a Notice of Intent to obtain authorization to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05GA83.

Executive Summary – Enforcement Matter – Case No. 64942
TBC - The Boring Company
RN111473534
Docket No. 2023-1489-WQ-E

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Develop and implement a stormwater pollution prevention plan to comply with the requirements of TPDES MSGP General Permit No. TXR05GA83;

ii. Submit documentation demonstrating that stabilization has been achieved along the disturbed area at the Site perimeter, adjacent to Farm-to-Market Road 1209; and

iii. Cease discharging concrete truck wash out water except for in a designated location with structural controls.

b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Arti Patel, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2514; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Jared Birchall, Director, TBC - The Boring Company, 130 Walker Watson Road, Bastrop, Texas 78602

Arun Prakash, Chief Financial Officer, TBC - The Boring Company, 130 Walker Watson Road, Bastrop, Texas 78602

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	2-Oct-2023	Screening	10-Oct-2023	EPA Due	
	PCW	4-Apr-2024				

RESPONDENT/FACILITY INFORMATION	
Respondent	TBC - The Boring Company
Reg. Ent. Ref. No.	RN111473534
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	64942	No. of Violations	4
Docket No.	2023-1489-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Arti Patel
		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	\$12,500
---	-------------------	-----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Adjustment	Subtotals 2, 3, & 7	\$625
---------------------------	------------------------	--------------------------------	--------------

Notes: Enhancement for one NOV with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	-------------------------	-------------------	------------

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,249
--	-------------------	-----------------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	--------------------------	-------------------	------------

Total EB Amounts: \$430
 Estimated Cost of Compliance: \$6,425
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,876
-----------------------------	-----------------------	-----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
---	------------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$11,876
-----------------------------	-----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,876
-----------------------------------	-------------------------------	-----------------

DEFERRAL	20.0% Reduction	Adjustment	-\$2,375
-----------------	------------------------	-------------------	-----------------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,501
------------------------	----------------

Screening Date 10-Oct-2023

Docket No. 2023-1489-WQ-E

PCW

Respondent TBC - The Boring Company

Policy Revision 5 (January 28, 2021)

Case ID No. 64942

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111473534

Media Water Quality

Enf. Coordinator Arti Patel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 10-Oct-2023

Docket No. 2023-1489-WQ-E

PCW

Respondent TBC - The Boring Company

Policy Revision 5 (January 28, 2021)

Case ID No. 64942

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111473534

Media Water Quality

Enf. Coordinator Arti Patel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 281.25(a)(4) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXR1533JC, Part IV, Section A

Violation Description

Failed to design, install, and maintain erosion controls and sediment controls to minimize the discharge of pollutants. Specifically, there were no sediment controls for the temporary construction entrance and exit located at the northeast construction area.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the April 10, 2023 investigation date to the April 11, 2023 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Notes The Respondent achieved compliance by April 11, 2023.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,001

This violation Final Assessed Penalty (adjusted for limits) \$1,001

Economic Benefit Worksheet

Respondent TBC - The Boring Company
Case ID No. 64942
Reg. Ent. Reference No. RN111473534
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	\$500	10-Apr-2023	11-Apr-2023	0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated Engineering/Construction cost to install silt fencing along the temporary construction entrance and exit at the northeast construction area. The Date Required is the investigation date, and the Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$0

Screening Date 10-Oct-2023 **Docket No.** 2023-1489-WQ-E **PCW**
Respondent TBC - The Boring Company *Policy Revision 5 (January 28, 2021)*
Case ID No. 64942 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111473534
Media Water Quality
Enf. Coordinator Arti Patel

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and TPDES Permit No. TXR1533JC, Part IV, Section B
Violation Description Failed to stabilize disturbed areas where clearing, grading, or earth-disturbing activities have ceased. Specifically, stabilization measures were not immediately implemented at the Site's utility construction disturbance along Farm-to-Market Road 1209.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%
Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 183 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the April 10, 2023 investigation date to the October 10, 2023 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount \$232 Violation Final Penalty Total \$2,625
This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent TBC - The Boring Company
Case ID No. 64942
Reg. Ent. Reference No. RN111473534
Media Violation No. 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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$3,000	10-Apr-2023	26-Oct-2024	1.55	\$232	n/a	\$232

Notes for DELAYED costs Estimated Other cost to stabilize the disturbed area along the Site perimeter, adjacent to Farm-to-Market Road 1209, and to seed approximately 16,000 square feet of the disturbed area. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$3,000

TOTAL \$232

Screening Date 10-Oct-2023 **Docket No.** 2023-1489-WQ-E **PCW**
Respondent TBC - The Boring Company *Policy Revision 5 (January 28, 2021)*
Case ID No. 64942 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111473534
Media Water Quality
Enf. Coordinator Arti Patel

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. TXR1533JC, Part VI, Section B
Violation Description Failed to prevent the unauthorized discharge of concrete truck wash out water. Specifically, concrete truck wash out water residual was on the ground without structural controls at the northeast construction area.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 57 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the April 10, 2023 investigation date to the June 6, 2023 compliance date.

Good Faith Efforts to Comply 25.0% Reduction \$937

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

Notes: The Respondent achieved compliance by June 6, 2023.

Violation Subtotal \$2,813

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

Estimated EB Amount \$5 **Violation Final Penalty Total** \$3,001

This violation Final Assessed Penalty (adjusted for limits) \$3,001

Economic Benefit Worksheet

Respondent TBC - The Boring Company
Case ID No. 64942
Reg. Ent. Reference No. RN111473534
Media Violation No. Water Quality
 3

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)	\$100	10-Apr-2024	26-Oct-2024	0.55	\$0	\$4	\$4
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)	\$100	10-Apr-2023	6-Jun-2023	0.16	\$1	n/a	\$1

Notes for DELAYED costs

Estimated Other cost to remove the concrete truck wash out water residual from the Site. The Date Required is the investigation date, and the Final date is the date of compliance.

Estimated Other cost to cease discharging concrete truck wash out water except for in a designated location with structural controls. The Date Required is the investigation date, and the Final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$5

Screening Date 10-Oct-2023 **Docket No.** 2023-1489-WQ-E **PCW**
Respondent TBC - The Boring Company *Policy Revision 5 (January 28, 2021)*
Case ID No. 64942 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111473534
Media Water Quality
Enf. Coordinator Arti Patel

Violation Number 4
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 industrial activities. Specifically, the Respondent was performing industrial activities prior to obtaining authorization under TPDES Multi-Sector General Permit No. TXR050000.

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 2 183 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from the April 10, 2023 investigation date to the October 10, 2023 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

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

Estimated EB Amount \$193 **Violation Final Penalty Total** \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent TBC - The Boring Company
Case ID No. 64942
Reg. Ent. Reference No. RN111473534
Media Water Quality
Violation No. 4

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	10-Apr-2023	10-Apr-2023	0.00	\$0	n/a	\$0
Other (as needed)	\$2,500	10-Apr-2023	26-Oct-2024	1.55	\$193	n/a	\$193

Notes for DELAYED costs

Actual Permit Cost to submit a Notice of Intent to obtain authorization to discharge stormwater. The Date Required is the investigation date, and the Final Date is the date of compliance.

Estimated Other cost to develop and implement a stormwater pollution prevention plan. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,725

TOTAL \$193



Compliance History Report

Compliance History Report for CN606004927, RN111473534, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN606004927, TBC - The Boring Company **Classification:** SATISFACTORY **Rating:** 1.00

Regulated Entity: RN111473534, THE BORING **Classification:** SATISFACTORY **Rating:** 1.00

Complexity Points: 9 **Repeat Violator:** NO

CH Group: 09 - Construction

Location: 130 Walker Watson Road in Bastrop, Bastrop County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

AIR NEW SOURCE PERMITS REGISTRATION 168718

AIR NEW SOURCE PERMITS REGISTRATION 172226

STORMWATER PERMIT TXR1533JC

STORMWATER PERMIT TXR05GA83

WASTEWATER EPA ID TX0143219

WASTEWATER PERMIT WQ0005397000

WASTEWATER PERMIT 2E0000311

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: Cheryl Thompson

Phone: (817) 588-5865

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.):

Item 2 September 29, 2023 (1897083)

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: 03/20/2023 (1861023)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to post a TCEQ Large Construction Site Notice in a location where it is readily available for viewing by the general public, local, state, and federal

authorities, in violation of 30 Texas Administrative Code (TAC) 281.25(a)(4), TXR150000, Part II, Section E(3)(c).

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Description:	Failure to design, install, and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants (sediment). Specifically, erosion logs were not properly maintained. Additionally, erosion and sediment controls listed in the SWP3 were not implemented, in violation of 30 TAC 281.25(a)(4), TXR150000, Part III, Section G(1).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Description:	Failure to provide knowledgeable personnel to conduct site inspections, in violation of 30 TAC 281.25(a)(4), TXR15000, Part III, Section F(7)(a)(i).		

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
TBC - THE BORING COMPANY
RN111473534

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2023-1489-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 TBC - The Boring Company (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 together stipulate that:

1. The Respondent owns and operates a construction site located at 130 Walker Watson Road in Bastrop, Bastrop 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. 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 ch. 26 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 \$11,876 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,501 of the penalty and \$2,375 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 April 11, 2023, the Respondent installed silt fencing along the temporary construction entrance and exit at the northeast construction area;
 - b. By April 11, 2023, the Respondent initiated soil stabilization at the site, and seeded approximately 16,000 square feet of the disturbed area;
 - c. By June 6, 2023, removed the concrete truck wash out water residual from the Site; and
 - d. By April 10, 2023, submitted a Notice of Intent to obtain authorization to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05GA83.

II. ALLEGATIONS

During an investigation at the Site conducted on April 10, 2023, an investigator documented that the Respondent:

1. Failed to design, install, and maintain erosion controls and sediment controls to minimize the discharge of pollutants, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES Permit No. TXR1533JC, Part IV, Section A. Specifically, there were no sediment controls for the temporary construction entrance and exit located at the northeast construction area.
2. Failed to stabilize disturbed areas where clearing, grading, or earth-disturbing activities have ceased, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES Permit No. TXR1533JC, Part IV, Section B. Specifically, stabilization measures were not immediately implemented at the Site's utility construction disturbance along Farm-to-Market Road 1209.
3. Failed to prevent the unauthorized discharge of concrete truck wash out water, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. TXR1533JC, Part VI, Section B. Specifically, concrete truck wash out water residual was on the ground without structural controls at the northeast construction area.

4. Failed to obtain 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, the Respondent was performing industrial activities prior to obtaining authorization under TPDES MSGP No. TXR050000.

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: TBC- The Boring Company, Docket No. 2023-1489-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 after the effective date of this Order:
 - i. Develop and implement a stormwater pollution prevention plan to comply with the requirements of TPDES MSGP General Permit No. TXR05GA83.
 - ii. Submit documentation demonstrating that stabilization has been achieved along the disturbed area at the Site perimeter, adjacent to Farm-to-Market Road 1209, in accordance with TPDES Permit No. TXR1533JC.
 - iii. Cease discharging concrete truck wash out water except for in a designated location with structural controls, in accordance with TPDES General Permit No. TXR1533JC, Part VI.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

6/24/2024


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

May 14, 2024

Date

ARUN PRAKASH

Name (Printed or typed)
Authorized Representative of
TBC - The Boring Company

CFO

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.