

Executive Summary – Enforcement Matter – Case No. 64167

Lee Nmi Weir

RN107135113

Docket No. 2023-1493-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

4J Materials, 550 Old Brock Road, Weatherford, Parker County

Type of Operation:

Aggregate production operation (“APO”)

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 23, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,750

Amount Deferred for Expedited Settlement: \$1,550

Total Paid to General Revenue: \$6,200

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: \$2,800

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 5, 2022

Date(s) of NOE(s): October 14, 2022

Executive Summary – Enforcement Matter – Case No. 64167

Lee Nmi Weir

RN107135113

Docket No. 2023-1493-WQ-E

Violation Information

1. Failed to register the Site as an APO no later than the tenth business day before the beginning date of regulated activities [30 TEX. ADMIN. CODE § 342.25(b)].
2. Failed to obtain authorization to discharge water associated with quarry activities to water in the State located within a water quality protection area in the John Graves Scenic Riverway [30 TEX. ADMIN. CODE § 311.74(a) and (b) and TEX. WATER CODE § 26.553].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Register the Site as an APO through the State of Texas Environmental Electronic Reporting System;
 - ii. Submit a Notice of Intent, Restoration Plan, Pollution Prevention Plan, and proof of financial assurance for restoration in order to obtain authorization to discharge water under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG500000; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.
- c. Within 120 days, submit written certification that either authorization to operate under TPDES General Permit No. TXG500000 has been obtained or that operation has ceased until such time that appropriate authorization is obtained to demonstrate compliance.

Contact Information

TCEQ Attorney: N/A

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

Respondent: Lee Weir, Agent, P.O. Box 541793, Dallas, Texas 75354

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	17-Oct-2022	Screening	29-Dec-2022	EPA Due	
	PCW	20-Mar-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	Lee Nmi Weir PCW No. 1 of 2				
Reg. Ent. Ref. No.	RN107135113				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	64167	No. of Violations	1		
Docket No.	2023-1493-WQ-E	Order Type	1660		
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Monica Larina		
		EC's Team	Enforcement Team 1		
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$20,000	Violation Maximum	\$40,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10.0%	Adjustment	Subtotals 2, 3, & 7	\$200
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Notes	Reduction for High Performer Classification. Enhancement for one agreed order containing a denial of liability.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.			
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$106	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,106	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes				
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Final Penalty Amount	\$2,200
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.			
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.			
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PAYABLE PENALTY	\$4,000
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Screening Date	29-Dec-2022	Docket No.	2023-1493-WQ-E	PCW
Respondent	Lee Nmi Weir PCW No. 1 of 2			
Case ID No.	64167			
Reg. Ent. Reference No.	RN107135113			
Media	Aggregate Production Operation			
Enf. Coordinator	Monica Larina			

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>)	1	20%
	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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer Classification. Enhancement for one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date	29-Dec-2022	Docket No.	2023-1493-WQ-E	PCW	
Respondent	Lee Nmi Weir PCW No. 1 of 2				<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	64167				<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN107135113				
Media	Aggregate Production Operation				
Enf. Coordinator	Monica Larina				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 342.25(b)				
Violation Description	Failed to register the Site as an aggregate production operation ("APO") no later than the tenth business day before the beginning date of regulated activities.				
		Base Penalty	\$20,000		

>> 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 requirement was not met.					
	Adjustment					\$18,000

\$2,000

Violation Events

Number of Violation Events	1	85	Number of violation days
	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="display: flex; align-items: center; margin-bottom: 2px;">daily</div> <div style="display: flex; align-items: center; margin-bottom: 2px;">weekly</div> <div style="display: flex; align-items: center; margin-bottom: 2px;">monthly</div> <div style="display: flex; align-items: center; margin-bottom: 2px;">quarterly</div> <div style="display: flex; align-items: center; margin-bottom: 2px;">semiannual</div> <div style="display: flex; align-items: center; margin-bottom: 2px;">annual</div> <div style="display: flex; align-items: center;">single event</div> </div>		
		x	
		Violation Base Penalty	
		\$2,000	
	One single event is recommended.		

Good Faith Efforts to Comply

	0.0%			
	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			\$2,000

Economic Benefit (EB) for this violation

		Statutory Limit Test	
Estimated EB Amount	\$106	Violation Final Penalty Total	\$2,200
	This violation Final Assessed Penalty (adjusted for limits)		\$5,000

Economic Benefit Worksheet

Respondent Lee Nmi Weir PCW No. 1 of 2
Case ID No. 64167
Reg. Ent. Reference No. RN107135113
Media Aggregate Production Operation
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,106	5-Oct-2022	1-Sep-2024	1.91	\$106	n/a	\$106
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual Permit cost to register the Site as an APO and obtain approval. The Date Required is the date of the compliance investigation file review, 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

\$1,106

TOTAL

\$106



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	17-Oct-2022	Screening	29-Dec-2022	EPA Due	
	PCW	20-Mar-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	Lee Nmi Weir PCW No. 2 of 2				
Reg. Ent. Ref. No.	RN107135113				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	64167	No. of Violations	1
Docket No.	2023-1493-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Monica Larina
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$100	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10.0%	Adjustment	Subtotals 2, 3, & 7	\$250
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Notes: Reduction for High Performer Classification. Enhancement for one agreed order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$206
Estimated Cost of Compliance: \$1,215
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$550
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,200
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Screening Date	29-Dec-2022	Docket No.	2023-1493-WQ-E	PCW
Respondent	Lee Nmi Weir PCW No. 2 of 2			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	64167			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN107135113			
Media	Water Quality			
Enf. Coordinator	Monica Larina			

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>)	1	20%
	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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer Classification. Enhancement for one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date	29-Dec-2022	Docket No.	2023-1493-WQ-E	PCW	
Respondent	Lee Nmi Weir PCW No. 2 of 2			<i>Policy Revision 5 (January 28, 2021)</i>	
Case ID No.	64167			<i>PCW Revision February 11, 2021</i>	
Reg. Ent. Reference No.	RN107135113				
Media	Water Quality				
Enf. Coordinator	Monica Larina				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 311.74(a) and (b) and Tex. Water Code § 26.553				
Violation Description	Failed to obtain authorization to discharge water associated with quarry activities to water in the State located within a water quality protection area in the John Graves Scenic Riverway.				
		Base Penalty	\$25,000		
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				
>>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	1	85	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly	x		Violation Base Penalty \$2,500	
	semiannual				
	annual				
	single event				
	One quarterly event is recommended from the record review date (October 5, 2022) to the screening date (December 29, 2022).				
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	\$206	Violation Final Penalty Total	\$2,750	
	This violation Final Assessed Penalty (adjusted for limits)		\$2,750		

Economic Benefit Worksheet

Respondent Lee Nmi Weir PCW No. 2 of 2
Case ID No. 64167
Reg. Ent. Reference No. RN107135113
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,215	9-Feb-2022	30-Jun-2025	3.39	\$206	n/a	\$206
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Permit Costs to prepare and submit a Notice of Intent, a Restoration Plan, proof of financial assurance for restoration, and a Pollution Prevention Plan in order to obtain authorization to discharge water associated with quarry activities. The Date Required is the initial 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

\$1,215

TOTAL

\$206



Compliance History Report

Compliance History Report for CN606003416, RN107135113, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN606003416, WEIR, LEE NMI	Classification:	HIGH	Rating:	0.00
Regulated Entity:	RN107135113, 4J MATERIALS	Classification:	HIGH	Rating:	0.00
Complexity Points:	1	Repeat Violator:	NO		
CH Group:	04 - Mining				
Location:	550 Old Brock Road, Weatherford, Parker County, Texas				
TCEQ Region:	REGION 04 - DFW METROPLEX				
ID Number(s):					
AGGREGATE PRODUCTION OPERATION REGISTRATION	AP0001330	AIR QUALITY NON PERMITTED ID NUMBER	R04107135113		
WATER QUALITY NON PERMITTED ID NUMBER	R04107135113	WASTEWATER PERMIT TXG500013			
Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year:	2023	Rating Date:	09/01/2023
Date Compliance History Report Prepared:	May 31, 2024				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	May 31, 2019 to May 31, 2024				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Monica Larina	Phone:	(512) 239-0184		

Site and Owner/Operator History:

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

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

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

- | | | |
|---|--|---|
| 1 | Effective Date: 08/04/2020 | ADMINORDER 2019-1273-WQ-E (1660 Order-Agreed Order With Denial) |
| | Classification: Major | |
| | Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4) | |
| | 30 TAC Chapter 311. SubChapter H 311.74(b)(1)(A) | |
| | 30 TAC Chapter 311. SubChapter H 311.75 | |
| | 40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c) | |
| | TWC Chapter 26 26.121 | |
| | Description: Failure to obtain, maintain, and/or renew a John Graves Scenic Riverway (JGSR, TXG500000) authorization, resulted in non-compliance with Title 30 Texas Administrative Code (TAC) Chapter 281.25(a)(4). | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

- | | | |
|--------|------------------|-----------|
| Item 1 | April 08, 2021 | (1703483) |
| Item 2 | July 13, 2021 | (1749188) |
| Item 3 | July 15, 2021 | (1749185) |
| Item 4 | August 10, 2021 | (1760167) |
| Item 5 | October 12, 2021 | (1772965) |

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
LEE NMI WEIR
RN107135113

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2023-1493-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 Lee Nmi Weir (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because he is an operator, as defined in TEX. WATER CODE § 28A.001(4), of an aggregate production operation ("APO") located at 550 Old Brock Road in Weatherford, Parker County, Texas (the "Site"). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, 7.073, and 26.556, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26 and 28A and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$7,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,200 of the penalty and \$1,550 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.

II. ALLEGATIONS

During a record review for the Site conducted on October 5, 2022, an investigator documented that the Respondent:

1. Failed to register the Site as an APO no later than the tenth business day before the beginning date of regulated activities, in violation of 30 TEX. ADMIN. CODE § 342.25(b).
2. Failed to obtain authorization to discharge water associated with quarry activities to water in the State located within a water quality protection area in the John Graves Scenic Riverway, in violation of 30 TEX. ADMIN. CODE § 311.74(a) and (b) and TEX. WATER CODE § 26.553.

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: Lee Nmi Weir, Docket No. 2023-1493-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. Register the Site as an APO through the State of Texas Environmental Electronic Reporting System;
 - ii. Submit a Notice of Intent, Restoration Plan, Pollution Prevention Plan, and proof of financial assurance for restoration in order to obtain authorization to discharge water under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG500000; and

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.
- b. Within 45 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.c below, to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.
- c. Within 120 days after the effective date of this Order, submit written certification that either authorization to operate under TPDES General Permit No. TXG500000 has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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

10/4/2024

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

7/23/24

Date

Lee Weir

Name (Printed or typed)
Authorized Representative of
Lee Nmi Weir

Agent

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.