

Executive Summary – Enforcement Matter – Case No. 65264
Zachry Construction Corporation
RN111259123
Docket No. 2024-0127-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

SH 170 Batch Plant, 5677 Alliance Gateway Freeway, Fort Worth, Tarrant County

Type of Operation:

Concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 5, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,875

Amount Deferred for Expedited Settlement: \$1,575

Total Paid to General Revenue: \$6,300

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): N/A

Complaint Information: N/A

Date(s) of Investigation: June 28, 2023 through June 29, 2023

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

Executive Summary – Enforcement Matter – Case No. 65264
Zachry Construction Corporation
RN111259123
Docket No. 2024-0127-WQ-E

Violation Information

1. Failed to comply with permit effluent limitations. Specifically, the oil and grease daily maximum concentration limit of 15 milligrams per liter ("mg/l") was exceeded during the monthly monitoring periods ending December 31, 2022 (27 mg/l) and March 31, 2023 (34 mg/l) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG113193, Part III, Permit Requirements No. A.1].

2. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual whole effluent toxicity ("WET") discharge monitoring report ("DMR") for the water flea and fathead minnow was not submitted for the annual monitoring period of 2022 by March 31st of the following year [30 TEX. ADMIN. CODE § 305.125(17) and TPDES General Permit No. TXG113193, Part IV, Standard Permit Conditions No. 7.f].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. By June 30, 2023, achieved compliance with permitted effluent limitations; and
- b. By October 16, 2023, submitted the required annual WET DMR for the annual monitoring period of 2022.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Kolby Farren, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2098; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: David S Zachry, President, Zachry Construction Corporation, 1999 Bryan Street, Dallas, Texas 75201

Gary Doty, Vice President, Zachry Construction Corporation, 1999 Bryan Street, Dallas, Texas 75201

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 9-Oct-2023 | Screening | 4-Jan-2024 | EPA Due | |
| | PCW | 22-Jan-2024 | | | | |

| | |
|--|---------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Zachry Construction Corporation |
| Reg. Ent. Ref. No. | RN111259123 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor |

| | | | |
|--|----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 65264 | No. of Violations | 2 |
| Docket No. | 2024-0127-WQ-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Kolby Farren |
| | | 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 | \$10,000 |
|---|-------------------|-----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------------|--------------------------------|------------|
| Compliance History | 0.0% Adjustment | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------------|--------------------------------|------------|

Notes: No enhancement for Compliance History.

| | | | | |
|--------------------|----|-------------------------|-------------------|------------|
| 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 | -\$2,125 |
|--|-------------------|-----------------|

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

Total EB Amounts: \$625
 Estimated Cost of Compliance: \$25,200
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$7,875 |
|-----------------------------|-----------------------|----------------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$7,875 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$7,875 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|------------------------|-------------------|-----------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,575 |
|-----------------|------------------------|-------------------|-----------------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$6,300 |
|------------------------|----------------|

Screening Date 4-Jan-2024

Docket No. 2024-0127-WQ-E

PCW

Respondent Zachry Construction Corporation

Policy Revision 5 (January 28, 2021)

Case ID No. 65264

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111259123

Media Water Quality

Enf. Coordinator Kolby Farren

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Number | Adjust. |
|-------------------------------|--|--------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No enhancement 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 4-Jan-2024 **Docket No.** 2024-0127-WQ-E **PCW**
Respondent Zachry Construction Corporation *Policy Revision 5 (January 28, 2021)*
Case ID No. 65264 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111259123
Media Water Quality
Enf. Coordinator Kolby Farren

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG113193, Part III, Permit Requirements No. A.1
Violation Description Failed to comply with permit effluent limitations. Specifically, the oil and grease daily maximum concentration limit of 15 milligrams per liter ("mg/l") was exceeded during the monthly monitoring periods ending December 31, 2022 (27 mg/l) and March 31, 2023 (34 mg/l).

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 2 62 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of December 2022 and March 2023.

Good Faith Efforts to Comply 25.0% Reduction \$1,875

| | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
|---------------|----------------|-----------------------------------|
| Extraordinary | | |
| Ordinary | X | |
| N/A | | |

Notes The Respondent achieved compliance by June 30, 2023.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$620 **Violation Final Penalty Total** \$5,625
This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent Zachry Construction Corporation
Case ID No. 65264
Reg. Ent. Reference No. RN111259123
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 | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$25,000 | 31-Dec-2022 | 30-Jun-2023 | 0.50 | \$620 | n/a | \$620 |
| Notes for DELAYED costs | Estimated cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the plant, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, 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 | \$25,000 | TOTAL | \$620 |
|-----------------------------------|----------|--------------|-------|

Screening Date 4-Jan-2024 **Docket No.** 2024-0127-WQ-E **PCW**
Respondent Zachry Construction Corporation *Policy Revision 5 (January 28, 2021)*
Case ID No. 65264 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111259123
Media Water Quality
Enf. Coordinator Kolby Farren

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code § 305.125(17) and TPDES General Permit No. TXG113193, Part IV, Standard Permit Conditions No. 7.f

Violation Description
 Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual whole effluent toxicity Discharge Monitoring Report for the water flea and fathead minnow was not submitted for the annual monitoring period of 2022 by March 31st of the following year.

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|----------------------|-----------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|---|----------------------|----------------------|------------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="X"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="10.0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | |
|--------------|---|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input checked="" type="text" value="X"/> |

Violation Base Penalty

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 checked="" type="text" value="X"/> |
| N/A | <input type="text"/> | <input type="text"/> |

Notes

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 Zachry Construction Corporation
Case ID No. 65264
Reg. Ent. Reference No. RN111259123
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 | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$200 | 31-Mar-2023 | 16-Oct-2023 | 0.55 | \$5 | n/a | \$5 |
| Notes for DELAYED costs | Estimated cost to submit the DMR for the missed monitoring period, update the Plant's operational guidance, and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed certified annual DMRs. The Date Required is the earliest DMR due date, and the Final Date is 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



Compliance History Report

Compliance History Report for CN603327818, RN111259123, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN603327818, Zachry Construction Corporation
Classification: SATISFACTORY **Rating:** 0.69

Regulated Entity: RN111259123, SH 170 BATCH PLANT
Classification: SATISFACTORY **Rating:** 2.67

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 09 - Construction

Location: 5677 ALLIANCE GATEWAY FREEWAY, FORT WORTH, TARRANT COUNTY, TEXAS 76177

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

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

Date Compliance History Report Prepared: May 13, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 13, 2019 to May 13, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Kolby Farren **Phone:** (512) 239-2098

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 1 | July 20, 2021 | (1754824) |
| Item 2 | August 09, 2021 | (1760103) |
| Item 3 | October 22, 2021 | (1780784) |
| Item 4 | November 29, 2021 | (1787031) |
| Item 5 | January 03, 2022 | (1793777) |
| Item 6 | January 28, 2022 | (1801606) |
| Item 7 | March 30, 2022 | (1809482) |
| Item 8 | September 29, 2022 | (1859474) |
| Item 9 | November 04, 2022 | (1865805) |
| Item 10 | December 05, 2022 | (1872693) |
| Item 11 | January 12, 2023 | (1878572) |
| Item 12 | March 15, 2023 | (1893199) |
| Item 13 | May 30, 2023 | (1915682) |

| | | |
|---------|--------------------|-----------|
| Item 14 | July 06, 2023 | (1922341) |
| Item 15 | September 07, 2023 | (1936155) |
| Item 16 | September 08, 2023 | (1942414) |
| Item 17 | October 30, 2023 | (1949176) |
| Item 18 | November 17, 2023 | (1954841) |

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
ZACHRY CONSTRUCTION
CORPORATION
RN111259123

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2024-0127-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 Zachry Construction Corporation (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 concrete batch plant located at 5677 Alliance Gateway Freeway in Fort Worth, Tarrant County, Texas (the "Plant"). The Plant 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 \$7,875 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,300 of the penalty and \$1,575 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:
 - a. By June 30, 2023, achieved compliance with permitted effluent limitations; and
 - b. By October 16, 2023, submitted the required annual whole effluent toxicity ("WET") Discharge Monitoring Report ("DMR") for the annual monitoring period of 2022.

II. ALLEGATIONS

During a record review for the Plant conducted from June 28, 2023 through June 29, 2023, an investigator documented that the Respondent:

1. Failed to comply with permit effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG113193, Part III, Permit Requirements No. A.1. Specifically, the oil and grease daily maximum concentration limit of 15 milligrams per liter ("mg/l") was exceeded during the monthly monitoring periods ending December 31, 2022 (27 mg/l) and March 31, 2023 (34 mg/l).
2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES General Permit No. TXG113193, Part IV, Standard Permit Conditions No. 7.f. Specifically, the annual WET DMR for the water flea and fathead minnow was not submitted for the annual monitoring period of 2022 by March 31st of the following year.

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: Zachry Construction Corporation, Docket No. 2024-0127-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

7/1/2024

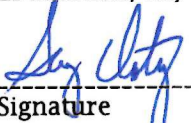
Date

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

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

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

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



Signature

6/4/2024

Date

GARY DOTY

Name (Printed or typed)
Authorized Representative of
Zachry Construction Corporation

Vice President

Title

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

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