

Executive Summary – Enforcement Matter – Case No. 65370

RK Hall, LLC

RN111775599

Docket No. 2024-0269-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Ponder Ready Mix, 7762 Farm-to-Market Road 2449, Ponder, Denton 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: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: November 8, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$16,707

Amount Deferred for Expedited Settlement: \$3,341

Total Paid to General Revenue: \$6,683

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$6,683

Name of SEP: Texas Water Development Board (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): October 26, 2023

Complaint Information: Alleged the Respondent had discharged unauthorized concrete washout waste offsite.

Date(s) of Investigation: November 6, 2023

Date(s) of NOE(s): February 2, 2024

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RK Hall, LLC

RN111775599

Docket No. 2024-0269-WQ-E

Violation Information

1. Failed to prevent the unauthorized discharge of industrial wastewater into or adjacent to any water in the state. Specifically, process wastewater was discharged from the Plant retention pond through a flow channel onto the neighboring property to the west, resulting in the accumulation of cement fines on the neighboring property [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05GD76 Part V, Section E.2].
2. Failed to obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent commenced Facility construction activities prior to obtaining authorization under TPDES General Permit No. TXR150000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
3. Failed to implement spill prevention, detection, and cleanup procedures and techniques. Specifically, diesel-type staining was observed on the vegetation surrounding the on-site diesel tank on the northeast corner of the property [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(1), and TPDES General Permit No. TXR05GD76 Part III, Section A.4(f)(5)].
4. Failed to identify all activities and significant materials that may potentially be pollutant sources in the Stormwater Pollution Prevention Plan. Specifically, the Respondent's Drainage Area Site Map did not depict an outline of the Facility's drainage area that shows the direction of the stormwater flow, and the location of all stormwater conveyances that drain to each permitted outfall. Additionally, the Drainage Area Site Map did not include the locations of all structures and impervious surfaces, including the recycled concrete pile near the northwest corner of the property and the diesel fuel tank on the northeast corner of the property [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05GD76 Part III, Section A.3(d)(2) & (4)].
5. Failed to visually examine stormwater discharges from each outfall on a quarterly basis. Specifically, the Respondent did not conduct quarterly stormwater visual monitoring during the first quarter following permit issuance on July 19, 2023 [30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05GD76 Part III, Section B.3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

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Docket No. 2024-0269-WQ-E

- a. By November 7, 2023, cleaned up the area where diesel-type staining was observed surrounding the on-site diesel tank on the northeast corner of the property;
- b. By January 17, 2024, obtained authorization to discharge wastewater and stormwater associated with industrial activity from ready-mixed concrete plants, concrete product plants, and their associated facilities under TPDES General Permit No. TXG113602 and by April 7, 2024, terminated authorization under TPDES General Permit No. TXR05GD76;
- c. By February 4, 2024, ceased regulated construction activities;
- d. By February 16, 2024, raised the berm surrounding the retention impoundment pond to ensure that it does not overflow and discharge process wastewater onto the neighboring property to the west;
- e. By April 10, 2024, ceased the discharge of process wastewater from the retention pond onto the neighboring property to the west; and
- f. By April 10, 2024, purchased a spill kit and implemented spill prevention, detection, and cleanup procedures and techniques for the on-site diesel tank on the northeast corner of the property.

Technical Requirements:

- 1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
- 2. The Order will also require the Respondent to:
 - a. Within 30 days, make all reasonable efforts, as determined by the Executive Director, to work with the owner of the affected neighboring property to the west to remove and dispose of the accumulated cement fines; and
 - b. Within 45 days, submit written certification to demonstrate compliance with a.

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RK Hall, LLC

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Docket No. 2024-0269-WQ-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Nancy Sims, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-5053; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231

Respondent: Chris Gaskill, Secretary, RK Hall, LLC, 5020 Southwest Loop 286, Paris, Texas 75460

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	29-Jan-2024	Screening	4-Feb-2024	EPA Due	
	PCW	17-Jul-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	RK Hall, LLC				
Reg. Ent. Ref. No.	RN111775599				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	65370	No. of Violations	5
Docket No.	2024-0269-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nancy M. Sims
		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	\$16,500
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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	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.			
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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	-\$375
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$896	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$11,575	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	3.6%	Adjustment	\$582
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated to Violation Nos. 2, 4, and 5.		
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Final Penalty Amount	\$16,707
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,707
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,341
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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	\$13,366
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Screening Date	4-Feb-2024	Docket No.	2024-0269-WQ-E	PCW
Respondent	RK Hall, LLC			
Case ID No.	65370			
Reg. Ent. Reference No.	RN111775599			
Media	Water Quality			
Enf. Coordinator	Nancy M. Sims			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment 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-Feb-2024 Respondent RK Hall, LLC Case ID No. 65370 Reg. Ent. Reference No. RN111775599 Media Water Quality Enf. Coordinator Nancy M. Sims Violation Number 1	Docket No. 2024-0269-WQ-E <div style="text-align: right;"> PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i> </div>																								
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121(a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05GD76 Part V, Section E.2																									
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Base Penalty \$25,000																									
>> Environmental, Property and Human Health Matrix																									
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"></td> <td style="width: 15%; text-align: center;">Release</td> <td style="width: 20%; text-align: center;">Harm</td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> <td style="width: 20%;"></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </table> <div style="text-align: right; margin-top: 5px;"> Percent 15.0% </div>		Release	Harm						Major	Moderate	Minor			Actual			x			Potential				
	Release	Harm																							
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	Falsification	Major	Moderate	Minor																					
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.																								
Adjustment \$21,250																									
<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div> \$3,750																									
Violation Events																									
<div style="display: flex; justify-content: space-between;"> <div> Number of Violation Events <div style="border: 1px solid black; padding: 2px 10px;">1</div> </div> <div> <div style="border: 1px solid black; padding: 2px 10px;">90</div> Number of violation days </div> </div> <div style="margin-top: 10px;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 30%;">daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table> <div style="text-align: right; margin-top: 10px;"> Violation Base Penalty \$3,750 </div> </div> <div style="border: 1px solid black; padding: 10px; margin-top: 10px; text-align: center;"> One quarterly event is recommended from the November 6, 2023 investigation date to the February 4, 2024 screening date. </div>		daily		weekly		monthly		quarterly	x	semiannual		annual		single event											
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Good Faith Efforts to Comply																									
<div style="display: flex; justify-content: space-between;"> <div> 0.0% Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer </div> <div> Reduction \$0 </div> </div> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 30%;">Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td></td> </tr> </table> <div style="margin-top: 10px;"> Notes The Respondent does not meet the good faith criteria for this violation. </div>		Extraordinary			Ordinary			N/A	x																
Extraordinary																									
Ordinary																									
N/A	x																								
Violation Subtotal \$3,750																									
Economic Benefit (EB) for this violation																									
<div style="display: flex; justify-content: space-between;"> <div> Estimated EB Amount \$303 </div> <div> Statutory Limit Test Violation Final Penalty Total \$3,885 </div> </div>																									
This violation Final Assessed Penalty (adjusted for limits) \$3,885																									

Economic Benefit Worksheet

Respondent RK Hall, LLC
Case ID No. 65370
Reg. Ent. Reference No. RN111775599
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)	\$5,000	6-Nov-2023	16-Feb-2024	0.28	\$5	\$93	\$98
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	\$5,000	6-Nov-2023	1-Sep-2024	0.82	\$205	n/a	\$205
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Other cost to raise the berm surrounding the retention impoundment pond to ensure that it does not overflow and discharge process wastewater onto the neighboring property to the west. Date Required is the date of the investigation and Final Date is the date of compliance.

Estimated Remediation/Disposal cost to work with the impacted property owner to remove and dispose of the accumulated cement fines from the neighboring property to the west. Date Required is the date of the investigation and 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

\$10,000

TOTAL

\$303

Screening Date 4-Feb-2024 Respondent RK Hall, LLC Case ID No. 65370 Reg. Ent. Reference No. RN111775599 Media Water Quality Enf. Coordinator Nancy M. Sims	Docket No. 2024-0269-WQ-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2		Rule Cite(s)	
			30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)	
Violation Description	Failed to obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent commenced Facility construction activities prior to obtaining authorization under TPDES General Permit No. TXR150000.			

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	
		X			Percent 10.0%
	100% of the rule requirements were not met.				

Adjustment	\$22,500
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	\$2,500
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Violation Events

Number of Violation Events	3	90	Number of violation days
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	daily		Violation Base Penalty \$7,500
	weekly		
	monthly	X	
	quarterly		
	semiannual		
	annual		
	single event		

Three monthly events are recommended from the November 6, 2023 investigation date to the February 4, 2024 screening date.

Good Faith Efforts to Comply

	0.0%	Reduction \$0
	Before NOE/NOV	NOE/NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal	\$7,500
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$228
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Statutory Limit Test

Violation Final Penalty Total	\$7,771
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This violation Final Assessed Penalty (adjusted for limits)	\$7,771
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Economic Benefit Worksheet

Respondent RK Hall, LLC
Case ID No. 65370
Reg. Ent. Reference No. RN111775599
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$225	6-Nov-2023	4-Feb-2024	0.25	\$3	\$225	\$228
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated one-time avoided costs to obtain authorization to discharge stormwater associated with construction activities. The Date Required is the date of the investigation and the Final Date is the screening date.

Approx. Cost of Compliance

\$225

TOTAL

\$228

Screening Date	Docket No.	PCW		
4-Feb-2024	2024-0269-WQ-E			
Respondent	RK Hall, LLC			
Case ID No.	65370			
Reg. Ent. Reference No.	RN111775599			
Media	Water Quality			
Enf. Coordinator	Nancy M. Sims			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121(a)(1), and TPDES General Permit No. TXR05GD76 Part III, Section A.4(f)(5)			
Violation Description	Failed to implement spill prevention, detection, and cleanup procedures and techniques. Specifically, diesel-type staining was observed on the vegetation surrounding the on-site diesel tank on the northeast corner of the property.			
Base Penalty		\$25,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			X
	Potential			
Percent		15.0%		
>> Programmatic Matrix				
Matrix Notes	Falsification	Major	Moderate	Minor
	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	90	
		Number of violation days		
Violation Base Penalty	daily			
	weekly			
	monthly			
	quarterly	X		
	semiannual			
	annual			
	single event			
One quarterly event is recommended from the November 6, 2023 investigation date to the February 4, 2024 screening date.				
Good Faith Efforts to Comply		10.0%	Reduction	
		\$375		
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary		X		
N/A				
Notes	The Respondent achieved compliance on April 10, 2024.			
Violation Subtotal		\$3,375		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$11	Violation Final Penalty Total	\$3,497	
This violation Final Assessed Penalty (adjusted for limits)		\$3,497		

Economic Benefit Worksheet

Respondent RK Hall, LLC
Case ID No. 65370
Reg. Ent. Reference No. RN111775599
Media Water Quality
Violation No. 3

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	\$500	6-Nov-2023	7-Nov-2023	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	6-Nov-2023	10-Apr-2024	0.43	\$11	n/a	\$11

Notes for DELAYED costs

Estimated remediation/disposal cost to clean the area where the previous spill was observed surrounding the on-site diesel tank on the northeast corner of the property. Date Required is the date of the investigation and Final Date is the date of compliance.

Estimated Other cost to implement spill prevention, detection, and cleanup procedures and techniques at the site of the previous spill surrounding the on-site diesel tank on the northeast corner of the property. Date Required is the date of the investigation and 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

\$1,000

TOTAL

\$11

Screening Date	4-Feb-2024	Docket No.	2024-0269-WQ-E	PCW	
Respondent	RK Hall, LLC			Policy Revision 5 (January 28, 2021)	
Case ID No.	65370			PCW Revision February 11, 2021	
Reg. Ent. Reference No.	RN111775599				
Media	Water Quality				
Enf. Coordinator	Nancy M. Sims				
Violation Number	4				
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR05GD76 Part III, Section A.3(d)(2) & (4)				
Violation Description	Failed to identify all activities and significant materials that may potentially be pollutant sources in the Stormwater Pollution Prevention Plan. Specifically, the Respondent's Drainage Area Site Map did not depict an outline of the Facility's drainage area that shows the direction of the stormwater flow, and the location of all stormwater conveyances that drain to each permitted outfall. Additionally, the Drainage Area Site Map did not include the locations of all structures and impervious surfaces, including the recycled concrete pile near the northwest corner of the property and the diesel fuel tank on the northeast corner of the property.				
		Base Penalty	\$25,000		
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major	Moderate	Minor	
	Actual				
	Potential				Percent 0.0%
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
				X	Percent 1.0%
Matrix Notes	Less than 30% of the rule requirements were not met.				
		Adjustment	\$24,750		
					\$250
>> Violation Events					
	Number of Violation Events	1	90	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event		X		Violation Base Penalty \$250
	One single event is recommended.				
>> 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	\$250		
>> Economic Benefit (EB) for this violation					
	Statutory Limit Test				
	Estimated EB Amount	\$253	Violation Final Penalty Total	\$259	
	This violation Final Assessed Penalty (adjusted for limits) \$259				

Economic Benefit Worksheet

Respondent RK Hall, LLC
Case ID No. 65370
Reg. Ent. Reference No. RN111775599
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$250	6-Nov-2023	4-Feb-2024	0.25	\$3	\$250	\$253

Notes for AVOIDED costs

Estimated Other cost to update the Facility Stormwater Pollution Prevention Plan Drainage Area Site Map to include an outline of the facility's drainage area that shows the direction of the stormwater flow, the location of all stormwater conveyances that drain to each permitted outfall, and the locations of all structures and impervious surfaces. Date Required is the date of the investigation and Final Date is the screening date.

Approx. Cost of Compliance

\$250

TOTAL

\$253

Screening Date 4-Feb-2024 Respondent RK Hall, LLC Case ID No. 65370 Reg. Ent. Reference No. RN111775599 Media Water Quality Enf. Coordinator Nancy M. Sims	Docket No. 2024-0269-WQ-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
Violation Number 5		
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and TPDES General Permit No. TXR05GD76 Part III, Section B.3		
Violation Description Failed to visually examine stormwater discharges from each outfall on a quarterly basis. Specifically, the Respondent did not conduct quarterly stormwater visual monitoring during the first quarter following permit issuance on July 19, 2023.		
Base Penalty		\$25,000

>> Environmental, Property and Human Health Matrix

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

>> 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	90	Number of violation days
--	--	--------------------------

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,250

One single event is recommended for the missed quarterly monitoring that should have been conducted during the first quarter after permit issuance.

Good Faith Efforts to Comply

	0.0%	
	<small>Before NOE/NOV</small>	<small>NOE/NOV to EDPRP/Settlement Offer</small>
Extraordinary		
Ordinary		
N/A	X	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	Violation Final Penalty Total
\$101	\$1,295
This violation Final Assessed Penalty (adjusted for limits) \$1,295	

Economic Benefit Worksheet

Respondent RK Hall, LLC
Case ID No. 65370
Reg. Ent. Reference No. RN111775599
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$100	19-Oct-2023	4-Feb-2024	0.30	\$1	\$100	\$101
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated one-time avoided costs for failure to conduct quarterly visual monitoring during the first quarter following permit issuance on July 19, 2023. The Date Required is the end date of the first first quarter following permit issuance, and the Final Date is the screening date.

Approx. Cost of Compliance

\$100

TOTAL

\$101



Compliance History Report

Compliance History Report for CN604705673, RN111775599, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN604705673, RK Hall, LLC **Classification:** SATISFACTORY **Rating:** 2.40

Regulated Entity: RN111775599, PONDER READY MIX **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 7762 Farm-to-Market Road 2449, Ponder, Denton County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER PERMIT TXG113602

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

Date Compliance History Report Prepared: June 18, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 18, 2019 to June 18, 2024

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

Name: Nancy M. Sims **Phone:** (512) 239-5053

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 May 06, 2024 (1987018)

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
RK HALL, LLC
RN111775599

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2024-0269-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 RK Hall, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concrete batch plant located at 7762 Farm-to-Market Road 2449 in Ponder, Denton 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 \$16,707 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,683 of the penalty and \$3,341 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$6,683 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

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 Plant:
 - a. By November 7, 2023, cleaned up the area where diesel-type staining was observed surrounding the on-site diesel tank on the northeast corner of the property;
 - b. By January 17, 2024, obtained authorization to discharge wastewater and stormwater associated with industrial activity from ready-mixed concrete plants, concrete product plants, and their associated facilities under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG113602 and by April 7, 2024, terminated authorization under TPDES General Permit No. TXR05GD76.
 - c. By February 4, 2024, ceased regulated construction activities;
 - d. By February 16, 2024, raised the berm surrounding the retention impoundment pond to ensure that it does not overflow and discharge process wastewater onto the neighboring property to the west;
 - e. By April 10, 2024, ceased the discharge of process wastewater from the retention pond onto the neighboring property to the west; and
 - f. By April 10, 2024, purchased a spill kit and implemented spill prevention, detection, and cleanup procedures and techniques for the on-site diesel tank on the northeast corner of the property.

II. ALLEGATIONS

During an investigation at the Plant conducted on November 6, 2023, an investigator documented that the Respondent:

1. Failed to prevent the unauthorized discharge of industrial wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER

CODE § 26.121(a)(1), and TPDES General Permit No. TXR05GD76 Part V, Section E.2. Specifically, process wastewater was discharged from the Plant retention pond through a flow channel onto the neighboring property to the west, resulting in the accumulation of cement fines on the neighboring property.

2. Failed to obtain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, the Respondent commenced Facility construction activities prior to obtaining authorization under TPDES General Permit No. TXR150000.
3. Failed to implement spill prevention, detection, and cleanup procedures and techniques, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121(a)(1), and TPDES General Permit No. TXR05GD76 Part III, Section A.4(f)(5). Specifically, diesel-type staining was observed on the vegetation surrounding the on-site diesel tank on the northeast corner of the property.
4. Failed to identify all activities and significant materials that may potentially be pollutant sources in the Stormwater Pollution Prevention Plan, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05GD76 Part III, Section A.3(d)(2) & (4). Specifically, the Respondent's Drainage Area Site Map did not depict an outline of the Facility's drainage area that shows the direction of the stormwater flow, and the location of all stormwater conveyances that drain to each permitted outfall. Additionally, the Drainage Area Site Map did not include the locations of all structures and impervious surfaces, including the recycled concrete pile near the northwest corner of the property and the diesel fuel tank on the northeast corner of the property.
5. Failed to visually examine stormwater discharges from each outfall on a quarterly basis, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and TPDES General Permit No. TXR05GD76 Part III, Section B.3. Specifically, the Respondent did not conduct quarterly stormwater visual monitoring during the first quarter following permit issuance on July 19, 2023.

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: RK Hall, LLC, Docket No. 2024-0269-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 implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$6,683 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, make all reasonable efforts, as determined by the Executive Director, to work with the owner of the affected neighboring property to the west to remove and dispose of the accumulated cement fines.
 - b. Within 45 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. 3.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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.

5. 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.
6. 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.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

11/27/2024


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

10/7/24

Date

Chris Gushik

Name (Printed or typed)
Authorized Representative of
RK Hall, LLC

SECRETARY

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.

Attachment A
Docket Number: 2024-0269-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	RK Hall, LLC
Payable Penalty Amount:	\$13,366
SEP Offset Amount:	\$6,683
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Texas Water Development Board
Project Name:	<i>Water-Level Recorder Data in Every Texas County</i>
Total Project Budget:	\$997,500
Location of SEP:	Statewide; preference for Denton County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative payable penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Water Development Board** for the *Water-Level Recorder Data in Every Texas County* project (the “Project”). The Project is to purchase, install, and maintain automatic water-level recorders in unused wells in the remaining one hundred sixty-six (166) counties. The Third-Party Administrator shall give preference to installing water-level recorders initially in counties in which there are 1) no existing automatic water-level recorder wells, 2) no groundwater conservation district, or 3) groundwater conservation districts that do not have the staff and/or the financial ability to install an automatic water-level recorder. The Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent’s signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit from this SEP.

B. Environmental Benefit

The groundwater stored within Texas’ minor and major aquifers is an important natural resource that is relied upon to meet the water supply demands of Texans across the state. Many factors affect the availability of this resource including drought and increased demand. This Project will provide statewide comprehensive real-time groundwater level data to Texas counties, cities, groundwater conservation districts, water supply companies, and individual well owners.

The availability of this comprehensive data will promote awareness of the effects of drought on Texas' aquifers and assist in groundwater management planning and use throughout the state.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Water Development Board SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Water Development Board
Attention: Finance
P.O. Box 13231
Austin, Texas 78711-3231

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.