

Executive Summary – Enforcement Matter – Case No. 65661
OLD PAL CORPORATION
RN106520190
Docket No. 2024-1004-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Old Pal Sand Pit, 3300 Echo Drive, Amarillo, Potter 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: September 6, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,000

Amount Deferred for Expedited Settlement: \$2,000

Total Paid to General Revenue: \$8,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$5,853

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 15, 2024

Date(s) of NOE(s): February 28, 2024

**Executive Summary – Enforcement Matter – Case No. 65661
OLD PAL CORPORATION
RN106520190
Docket No. 2024-1004-WQ-E**

Violation Information

Failed to renew the APO registration annually as regulated activities continued. Specifically, the APO Registration No. AP0000874 expired on April 30, 2022, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By March 6, 2024, the Respondent registered the Site as an APO through the State of Texas Environmental Electronic Reporting System under APO Registration No. AP0000874.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Madison Stringer, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1126; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Ronnie Fleming, President, OLD PAL CORPORATION, P.O. Box 7310, Amarillo, Texas 79114

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	4-Mar-2024	Screening	5-Mar-2024	EPA Due	
	PCW	14-Jun-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	OLD PAL CORPORATION
Reg. Ent. Ref. No.	RN106520190
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	65661	No. of Violations	1		
Docket No.	2024-1004-WQ-E	Order Type	1660		
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Madison Stringer		
		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	\$4,000
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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	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	-\$400
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$568
Estimated Cost of Compliance	\$1,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	15.2%	Adjustment	\$547
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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 with the violation.
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Final Penalty Amount	\$4,147
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
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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	-\$2,000
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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	\$8,000
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Screening Date

5-Mar-2024

Docket No.

2024-1004-WQ-E

PCW

Respondent

OLD PAL CORPORATION

Case ID No.

65661

Reg. Ent. Reference No.

RN106520190

Media

Aggregate Production Operation

Enf. Coordinator

Madison Stringer

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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes	No adjustment for Compliance History.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date	5-Mar-2024	Docket No.	2024-1004-WQ-E	PCW
Respondent	OLD PAL CORPORATION	Policy Revision 5 (January 28, 2021)		
Case ID No.	65661	PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN106520190			
Media	Aggregate Production Operation			
Enf. Coordinator	Madison Stringer			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 342.25(d)			
Violation Description	Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued. Specifically, the APO Registration No. AP0000874 expired on April 30, 2022, and the Respondent continued to operate.			
Base Penalty				\$20,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			
		Major	Moderate	Minor	
	Actual				
	Potential				
					Percent 0.0%

>> Programmatic Matrix

OR		Harm			
		Major	Moderate	Minor	
	Falsification				
	Potential				
					Percent 10.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$18,000

\$2,000

Violation Events

Number of Violation Events	2	675	Number of violation days
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	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		

Violation Base Penalty \$4,000

Two single events are recommended.

Good Faith Efforts to Comply

	10.0%		
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary		x	
N/A			
Notes	The Respondent achieved compliance by March 6, 2024.		

Violation Subtotal \$3,600

Economic Benefit (EB) for this violation

Estimated EB Amount	\$568	Statutory Limit Test
		Violation Final Penalty Total
		\$4,147
		This violation Final Assessed Penalty (adjusted for limits)
		\$10,000

Economic Benefit Worksheet

Respondent OLD PAL CORPORATION
Case ID No. 65661
Reg. Ent. Reference No. RN106520190
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	\$500	30-Apr-2023	6-Mar-2024	0.85	\$21	n/a	\$21
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to register the Site as an APO. Date Required is the most recent registration renewal date, and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$500	30-Apr-2022	5-Mar-2024	1.85	\$47	\$500	\$547
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to renew the Site APO Registration (\$500 per annual registration fee x 1 missed registration). Date Required is the date the initial registration renewal was due, and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$568



Compliance History Report

Compliance History Report for CN604146308, RN106520190, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN604146308, OLD PAL CORPORATION **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN106520190, OLD PAL SAND PIT **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 04 - Mining

Location: 3300 ECHO DRIVE, AMARILLO, POTTER COUNTY, TEXAS

TCEQ Region: REGION 01 - AMARILLO

ID Number(s):
AGGREGATE PRODUCTION OPERATION REGISTRATION
AP0000874

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

Date Compliance History Report Prepared: June 16, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 16, 2019 to June 16, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Madison Stringer **Phone:** (512) 239-1126

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:

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 21, 2020 (1664159)

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
OLD PAL CORPORATION
RN106520190

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2024-1004-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 OLD PAL CORPORATION (the "Respondent") under the authority of TEX. WATER CODE chs. 7 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 it is an owner and operator, as defined in TEX. WATER CODE § 28A.001(5) and (4), of an aggregate production operation ("APO") located at 3300 Echo Drive in Amarillo, Potter 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).
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. 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 \$10,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$8,000 of the penalty and \$2,000 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 by March 6, 2024, the Respondent registered the Site as an APO through the State of Texas Environmental Electronic Reporting System under APO Registration No. AP0000874.

II. ALLEGATIONS

During an investigation at the Site conducted on February 15, 2024, an investigator documented that the Respondent failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d). Specifically, the APO Registration No. AP0000874 expired on April 30, 2022, and the Respondent continued to operate.

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: OLD PAL CORPORATION, Docket No. 2024-1004-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088

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 Site 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

9/18/2024

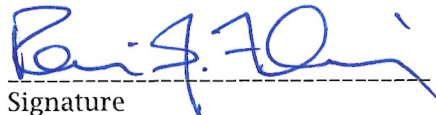
Date

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

7-31-2024

Date

Ronnie J Fleming

Name (Printed or typed)

Authorized Representative of
OLD PAL CORPORATION

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.