

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 14, 2020

Mr. Somaiah Kurre, President
Texas Concrete Sand and Gravel, Inc.
1017 Wakefield Drive
Houston, Texas 77018

Re: Proposed Agreed Order
Texas Concrete Sand and Gravel, Inc.
RN106352065; TPDES Multi-Sector General Permit No. TXR05DH81
Docket No. 2019-0211-WQ-E; Enforcement Case No. 57254
FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Kurre:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against Texas Concrete Sand and Gravel, Inc. of the Texas Water Code and/or Commission Rules. These violations were discovered during a record review conducted on January 9, 2019 and investigations conducted from May 15, 2019 through May 23, 2019 and on September 24, 2019, and documented in letters dated January 16, 2019, July 12, 2019, and October 18, 2019, respectively, from the TCEQ Houston Regional Office.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of \$19,063, identifies the violations that we are addressing and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Dallas/Fort Worth or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for approval by the Commission. We believe that handling this matter expeditiously could save Texas Concrete Sand and Gravel, Inc. and the TCEQ a significant amount of time, as well as the expense associated with litigation.

Enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing Texas Concrete Sand and Gravel, Inc., Docket No. 2019-0211-WQ-E) to:

Mr. Somaiah Kurre
Page 2
April 14, 2020

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

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. In order to qualify for financial inability to pay, the penalty must exceed \$3,600 and be greater than 1% of annual gross revenues. If this is the case, please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or contribute to a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing an SEP, you must agree to the penalty amount and submit an SEP proposal within 30 days of receipt of this proposed order.**

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <http://www.tceq.texas.gov/legal/sep/> or contact the Enforcement Coordinator listed below.

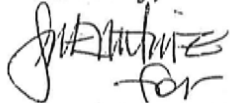
Please note that any agreements we reach are subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer, including the penalty deferral, will no longer be available. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70, or any other TCEQ rules, the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI-032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from the Central Office Publications Ordering Team at (512) 239-0028.

Mr. Somaiah Kurre
Page 3
April 14, 2020

For any questions or comments about this matter or to arrange a meeting, please contact Mr. Caleb Olson of my staff at (817) 588-5856.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurie Eaves" with a stylized flourish underneath.

Laurie Eaves, Manager
Enforcement Division
Texas Commission on Environmental Quality

LE/co

Enclosures: Proposed Agreed Order, Return Envelope, Penalty Calculation Worksheets (3),
Site Compliance History

Mr. Somaiah Kurre

Page 4

April 14, 2020

bcc: Manager, Water Section, Houston Regional Office
Mr. Caleb Olson, Coordinator, Enforcement Division, R-4
Central Records, MC 213, Building E, 1st Floor
STW MSGP_TXR05DH81_CP_2020-04-14_Proposed Agreed Order
Enforcement Division Electronic Reader File

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS CONCRETE SAND AND
GRAVEL, INC.
RN106352065

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2019-0211-WQ-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Concrete Sand and Gravel, Inc. (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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent operated an aggregate production operation located at 7530 Farm-to-Market Road 1010 in Cleveland, Liberty County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on January 9, 2019, an investigator documented that:
 - a. The benchmark value of 50 milligrams per liter ("mg/L") for Total Suspended Solids was exceeded on February 22, 2016 with a value of 375 mg/L and on August 29, 2016 with a value of 179 mg/L and no investigations were documented.
 - b. The Respondent was not properly recording sampling records, including the records of monitoring such as the date, time, and location of sample or measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and

place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records.

- c. On March 16, 2018, the pH at Outfall No. 1 was 5.75 standard units ("s.u."), failing to meet the minimum permitted numeric effluent limitation for pH of 6.0 s.u.
 - d. The Respondent was collecting effluent samples at the northern pit pump of the stormwater retention pond rather than at the designated Outfall Nos. 1 and 2.
3. During an investigation conducted from May 15, 2019 through May 23, 2019, an investigator documented that during a rainfall event, water from the East Fork of the San Jacinto River entered the Facility's secondary process pond ("Pond 2") through an approximate 20-foot berm breach, resulting in the discharge of approximately 40 million gallons of process wastewater into the East Fork of the San Jacinto River.
 4. During an investigation conducted on September 24, 2019, an investigator documented that:
 - a. Four berm breaches occurred at the Facility's primary process pond ("Pond 1"), resulting in the discharge of process wastewater into an existing drainage channel which led into the East Fork of the San Jacinto River.
 - b. The Respondent terminated coverage under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DH81 on October 1, 2019, and, during a flyover of the Facility conducted on October 1, 2019, large bare areas of soil were observed where the dry mining pit was located and where the southern berm breaches of Pond 1 had been repaired.
4. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - d. By May 28, 2019, ceased discharging process wastewater and repaired the berm surrounding Pond 2.
 - e. By September 26, 2019, ceased discharging process wastewater and repaired the berm surrounding Pond 1.
 - c. By January 13, 2020:
 - i. Updated the Facility's operational guidance and conducted employee training to ensure that:

- (1) Sampling records are properly recorded including the records of monitoring such as the date, time, and location of sample measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records.
 - (2) Investigations are properly conducted and recorded in the stormwater pollution prevent plan within 90 days of a benchmark value exceedance occurring.
- ii. Returned to compliance with the permitted numeric effluent limitations.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to investigate the cause for each benchmark value exceedance within 90 days following the sampling event, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and expired TPDES MSGP No. TXR05AX64, Part IV, Section A, Item 3.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to maintain complete and accurate records, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (11)(C) and terminated TPDES MSGP No. TXR05DH81, Part III, Section E, Item 5.
4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to comply with permitted numeric effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, Item 6(a)(1).
5. As evidenced by Finding of Fact No. 2.d, the Respondent failed to collect representative samples from the designated outfalls, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part III, Section D, Item 2(b)(1).
6. As evidenced by Finding of Fact No. 3, the Respondent failed to prevent the discharge of process wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 5(b).
7. As evidenced by Finding of Fact No. 4.a, the Respondent failed to prevent the discharge of process wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 5(b).

8. As evidenced by Finding of Fact No. 4.b, the Respondent failed to meet the final stabilization requirements before terminating coverage under TPDES MSGP No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 11(a).
9. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of \$19,063 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$19,063 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 10 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Concrete Sand and Gravel, Inc., Docket No. 2019-0211-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, achieve final stabilization at the Facility or return the area to an alternative post-mining use.
 - b. Within 45 days after the effective date of this Order, submit a written certification of compliance with Ordering Provision No. 2.a. The written certification of compliance shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Order Compliance Team at the address listed above.

7. 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 in this Order.
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. 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.
10. 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.
11. 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

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 Attorney General's Office 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 Attorney General's Office 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

Date

Name (Printed or typed)
Authorized Representative of
Texas Concrete Sand and Gravel, Inc.

Title

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



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|---------------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned PCW | 22-Jan-2019 | Screening | 4-Feb-2019 | EPA Due | |
|--------------|---------------------|-------------|------------------|------------|----------------|--|

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Texas Concrete Sand and Gravel, Inc. (PCW No. 1) |
| Reg. Ent. Ref. No. | RN106352065 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | |
|--|----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 57254 | No. of Violations | 4 |
| Docket No. | 2019-0211-WQ-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Caleb Olson |
| | | 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** \$4,125

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25.0% Adjustment **Subtotals 2, 3, & 7** \$1,031

Notes Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

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** -\$337

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

Total EB Amounts \$968
Estimated Cost of Compliance \$2,257
**Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$4,819

OTHER FACTORS AS JUSTICE MAY REQUIRE 16.7% **Adjustment** \$806

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 4.

Final Penalty Amount \$5,625

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$5,625

DEFERRAL 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage.

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$5,625

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of.. | Number | Adjust. |
|-------------------------------|--|--------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and expired Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05AX64, Part IV, Section A, Item 3

Violation Description

Failed to investigate the cause for each benchmark value exceedance within 90 days following the sampling event. Specifically, the benchmark value of 50 milligrams per liter ("mg/L") for Total Suspended Solids was exceeded on February 22, 2016 with a value of 375 mg/L and on August 29, 2016 with a value of 179 mg/L and no investigations were documented.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|---------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| Actual | | | | | 3.0% |
| Potential | | | | X | |

>> Programmatic Matrix

| Falsification | Harm | | | Percent |
|---------------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| | | | | 0.0% |

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 2 Number of violation days 740

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

Violation Base Penalty \$1,500

Two single events are recommended, one for each exceedance.

Good Faith Efforts to Comply

10.0%

Reduction \$150

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

Notes The Respondent achieved compliance by January 13, 2020.

Violation Subtotal \$1,350

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$271

Violation Final Penalty Total \$2,014

This violation Final Assessed Penalty (adjusted for limits) \$2,014

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
Media Water Quality
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
|--|-----------|---------------|------------|-----|----------------|-------------|-----------|
|--|-----------|---------------|------------|-----|----------------|-------------|-----------|

Item Description

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 | \$250 | 22-May-2016 | 13-Jan-2020 | 3.65 | \$46 | n/a | \$46 |
| 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

Training/Sampling cost is the estimated cost to update the Facility's operational guidance and conduct employee training to ensure that investigations are properly conducted and recorded in the stormwater pollution prevention plan ("SWP3") within 90 days of a benchmark value exceedance occurring. Date required is the last date an investigation could have been conducted and recorded for the exceedance that occurred on February 22, 2016. 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 | \$100 | 22-May-2016 | 4-Feb-2019 | 2.71 | \$14 | \$100 | \$114 |
| Other (as needed) | \$100 | 27-Nov-2016 | 4-Feb-2019 | 2.19 | \$11 | \$100 | \$111 |

Notes for AVOIDED costs

One-Time avoided cost is the estimated cost to investigate the cause of a benchmark value exceedance and record the results of the investigation in the SWP3. Date required is the last date an investigation could have been conducted and recorded for the exceedance that occurred on February 22, 2016. Final date is the screening date.

Other avoided cost is the estimated cost to investigate the cause of a benchmark value exceedance and record the results of the investigation in the SWP3. Date required is the last date an investigation could have been conducted and recorded for the exceedance that occurred on August 29, 2016. Final date is the screening date.

Approx. Cost of Compliance \$450

TOTAL \$271

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (11)(C) and terminated TPDES MSGP No. TXR05DH81, Part III, Section E, Item 5

Violation Description

Failed to maintain complete and accurate records. Specifically, the Respondent was not properly recording sampling records, including the records of monitoring such as the date, time, and location of sample or measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | X | |

Percent 2.5%

Matrix Notes

Between 30% and 70% of the rule requirements were not met.

Adjustment \$24,375

\$625

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$625

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$62

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

| | | |
|---------------|--|---|
| Extraordinary | | |
| Ordinary | | X |
| N/A | | |

Notes

The Respondent achieved compliance by January 13, 2020.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$840

This violation Final Assessed Penalty (adjusted for limits) \$840

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
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 | \$250 | 8-Feb-2018 | 13-Jan-2020 | 1.93 | \$24 | n/a | \$24 |
| 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

Training/Sampling cost is the estimated cost to update the Facility's operational guidance and conduct employee training to ensure that sampling records are properly recorded including the records of monitoring such as the date, time, and location of sample or measurement; identity of the individual who collected the sample or made the measurement or observation; and records of analysis such as the date, time, and place the analysis was conducted, the identity of the individual or laboratory that performed the analysis, the technique or method of analysis, the results, and the quality assurance and control records. Date required is the date the violation was initially documented. 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

\$250

TOTAL

\$24

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, Item 6(a)(1)

Violation Description

Failed to comply with permitted numeric effluent limitations. Specifically, on March 16, 2018, the pH at Outfall No. 1 was 5.75 standard units ("s.u."), failing to meet the minimum permitted numeric effluent limitation for pH of 6.0 s.u.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 5.0%

>> 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 \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$1,250

One quarterly event is recommended for the sample collected on March 16, 2018.

Good Faith Efforts to Comply

10.0%

Reduction \$125

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

Notes The Respondent achieved compliance by January 13, 2020.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$92

Violation Final Penalty Total \$1,678

This violation Final Assessed Penalty (adjusted for limits) \$1,678

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

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) | \$1,000 | 16-Mar-2018 | 13-Jan-2020 | 1.83 | \$92 | n/a | \$92 |

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance at the Facility and make any necessary adjustments to return to compliance with the permitted numeric effluent limitations. Date required is the date the violation was initially documented. 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

\$92

Screening Date 4-Feb-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part III, Section D, Item 2(b)(1)

Violation Description

Failed to collect representative samples from the designated outfalls. Specifically, the Respondent was collecting effluent samples at the northern pit pump of the stormwater retention pond rather than at the designated Outfall Nos. 1 and 2.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | X |

Percent 3.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

26 Number of violation days

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

Violation Base Penalty \$750

One quarterly event is recommended from the investigation date (January 9, 2019) to the screening date (February 4, 2019).

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$581

Violation Final Penalty Total \$1,094

This violation Final Assessed Penalty (adjusted for limits) \$1,094

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 1)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
Media Water Quality
Violation No. 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
|--|-----------|---------------|------------|-----|----------------|-------------|-----------|
|--|-----------|---------------|------------|-----|----------------|-------------|-----------|

Item Description

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 | \$307 | 30-Jun-2019 | 1-Oct-2019 | 0.25 | \$4 | \$307 | \$311 |
| Other (as needed) | \$250 | 16-Mar-2018 | 1-Oct-2019 | 1.55 | \$20 | \$250 | \$270 |

Notes for AVOIDED costs

One-time avoided cost is the estimated avoided cost to collect and analyze effluent samples (\$100 per sample x three missed samples + \$7 accrued interest). Date required is the last date a sample could have been collected for the first bi-annual monitoring period of 2019. Final date is the date authorization under TPDES MSGP No. TXR05DH81 was terminated.

Other cost is the estimated avoided cost to update the Facility's operational guidance and conduct employee training to ensure that representative samples are collected from the designated Outfall Nos. 1 and 2. Date required is the date the violation was initially documented. Final date is the date authorization under TPDES MSGP No. TXR05DH81 was terminated.

Approx. Cost of Compliance

\$557

TOTAL

\$581



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 15-Jul-2019 | Screening | 24-Jul-2019 | EPA Due | |
| | PCW | 21-Jan-2020 | | | | |

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Texas Concrete Sand and Gravel, Inc. (PCW No. 2) |
| Reg. Ent. Ref. No. | RN106352065 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | |
|--|----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 57254 | No. of Violations | 1 |
| Docket No. | 2019-0211-WQ-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Caleb Olson |
| | | 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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Adjustment** **Subtotals 2, 3, & 7**

Notes

Culpability **Enhancement** **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Enhancement*** **Subtotal 6**

Total EB Amounts
 Estimated Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Reduction** **Adjustment**

Reduces the Final Assessed Penalty by the Indicated percentage.

Notes

PAYABLE PENALTY

Screening Date 24-Jul-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 2)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Number | Adjust. |
|-------------------------------|--|--------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 24-Jul-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 2)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and terminated Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR05DH81, Part V, Section J, No. 5(b)

Violation Description

Failed to prevent the discharge of process wastewater into or adjacent to any water in the state. Specifically, during a rainfall event, water from the East Fork of the San Jacinto River entered the Facility's secondary process pond ("Pond 2") through an approximate 20-foot berm breach, resulting in the discharge of approximately 40 million gallons of process wastewater into the East Fork of the San Jacinto River.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | X | | |
| Potential | | | |

Percent 30.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

15 Number of violation days

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

Violation Base Penalty \$7,500

One monthly event is recommended from the initial date the unauthorized discharge occurred (May 13, 2019) to the date of compliance (May 28, 2019).

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 May 28, 2019.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 2)

Case ID No. 57254

Reg. Ent. Reference No. RN106352065

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) | \$11,000 | 13-May-2019 | 28-May-2019 | 0.04 | \$23 | n/a | \$23 |

Notes for DELAYED costs

Estimated cost to cease discharging process wastewater and to repair the berm surrounding Pond 2. Date required is the date the unauthorized discharge occurred. 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

\$11,000

TOTAL

\$23



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|---------------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned PCW | 21-Oct-2019 | Screening | 31-Oct-2019 | EPA Due | |
|--------------|---------------------|-------------|------------------|-------------|----------------|--|

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Texas Concrete Sand and Gravel, Inc. (PCW No. 3) |
| Reg. Ent. Ref. No. | RN106352065 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | |
|--|----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 57254 | No. of Violations | 2 |
| Docket No. | 2019-0211-WQ-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Caleb Olson |
| | | 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** \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25.0% Adjustment **Subtotals 2, 3, & 7** \$1,250

Notes: Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

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** -\$312

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

Total EB Amounts \$1,250
Estimated Cost of Compliance \$25,250
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$5,938

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$5,938

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$5,938

DEFERRAL 0.0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$5,938

Screening Date 31-Oct-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Number | Adjust. |
|-------------------------------|---|--------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission. | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 31-Oct-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and terminated Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05DH81, Part V, Section J, No. 5(b)

Violation Description Failed to prevent the discharge of process wastewater into or adjacent to any water in the state. Specifically, four berm breaches occurred at the Facility's primary process pond ("Pond 1"), resulting in the discharge of process wastewater into an existing drainage channel which led into the East Fork of the San Jacinto River.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 2

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (September 24, 2019) to the date of compliance (September 26, 2019).

Good Faith Efforts to Comply

25.0% Reduction \$312

Table with columns: Extraordinary, Ordinary, N/A, and checkboxes.

Notes

The Respondent achieved compliance by September 26, 2019.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,251

This violation Final Assessed Penalty (adjusted for limits) \$1,251

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)

Case ID No. 57254

Reg. Ent. Reference No. RN106352065

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) | \$250 | 24-Sep-2019 | 26-Sep-2019 | 0.01 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to cease discharging process wastewater and to repair the berm surrounding Pond 1. Date required is the date the unauthorized discharge occurred. 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

\$250

TOTAL

\$0

Screening Date 31-Oct-2019

Docket No. 2019-0211-WQ-E

PCW

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)

Policy Revision 4 (April 2014)

Case ID No. 57254

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106352065

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and terminated TPDES MSGP No. TXR05DH81, Part V, Section J, No. 11(a)

Violation Description

Failed to meet the final stabilization requirements before terminating coverage under TPDES MSGP No. TXR050000. Specifically, the Respondent terminated coverage under TPDES MSGP No. TXR05DH81 on October 1, 2019, and, during a flyover of the Facility conducted on October 1, 2019, large bare areas of soil were observed where the dry mining pit was located and where the southern berm breaches of Pond 1 had been repaired.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | X | | |

Percent 15.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants that would 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

30 Number of violation days

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

Violation Base Penalty \$3,750

One monthly event is recommended from the date coverage under TPDES MSGP No. TXR05DH81 was terminated (October 1, 2019) to the screening date (October 31, 2019).

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,250

Violation Final Penalty Total \$4,688

This violation Final Assessed Penalty (adjusted for limits) \$4,688

Economic Benefit Worksheet

Respondent Texas Concrete Sand and Gravel, Inc. (PCW No. 3)
Case ID No. 57254
Reg. Ent. Reference No. RN106352065
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) | \$25,000 | 1-Oct-2019 | 30-Sep-2020 | 1.00 | \$1,250 | n/a | \$1,250 |

Notes for DELAYED costs
 Estimated cost to achieve final stabilization at the Facility or return the area to an alternative post-mining use. Date required is the date coverage under TPDES MSGP No. TXR05DH81 was terminated. Final date is the anticipated 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
 (This section is currently blank)

Approx. Cost of Compliance \$25,000
TOTAL \$1,250

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN604045708, RN106352065, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN604045708, Texas Concrete Sand and Gravel, Inc. **Classification:** SATISFACTORY **Rating:** 53.90

Regulated Entity: RN106352065, Plum Grove Plant **Classification:** SATISFACTORY **Rating:** 22.14

Complexity Points: 6 **Repeat Violator:** NO

PH Group: 04 - Mining

Location: 7530 Farm-to-Market Road 1010 in Cleveland, Liberty County, Texas

CEQ Region: REGION 12 - HOUSTON

CD Number(s):

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Latest Compliance History Report Prepared: March 06, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 06, 2015 to March 06, 2020

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

Name: Caleb Olson

Phone: (817) 588-5856

Site and Owner/Operator History:

- Has the site been in existence and/or operation for the full five year compliance period? YES
- 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

Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 12/13/2016 ADMINORDER 2016-0143-WQ-E (1660 Order-Agreed Order With Denial)
 - Classification: Major
 - Citation: 30 TAC Chapter 342, SubChapter B 342.25(d)
 - Description: Failed to renew the Aggregate Production Operation (APO) registration annually.
 - Classification: Major
 - Citation: TWC Chapter 26 26.121(a)(2)
 - Description: Failed to prevent the unauthorized discharge of industrial waste

Criminal convictions:

N/A

Chronic excessive emissions events:

N/A

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

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

| | | |
|---|---|--------------------------|
| 1 | Date: 03/08/2019 (1539125) | Classification: Moderate |
| | Self Report? NO | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2) | |
| | Description: Failure to prevent the unauthorized discharge of industrial wastewater (process water) into or adjacent to any water in the state. | |

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