

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0855-MLM-E **TCEQ ID:** RN105485460 **CASE NO.:** 35808
RESPONDENT NAME: Cobra Stone, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: Stone Quarry 1, located at 1085 County Road 239, Williamson County</p> <p>TYPE OF OPERATION: Stone quarry</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 24, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Pedro Aguado, President, Cobra Stone, Inc., P.O. Box 705, Jarrell, Texas 76537 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 26, 2008</p> <p>Date of NOV/NOE Relating to this Case: April 16, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to obtain authorization to discharge industrial storm water from a stone quarry under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p> <p>2) Failure to obtain approval of a Water Pollution Abatement Plan ("WPAP") prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone. Specifically, the investigator observed quarry activities on a combined area of approximately 11.4 acres [30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.5(a)(1)].</p> <p>3) Failure to obtain approval of an Aboveground Storage Tank ("AST") Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone. Specifically, the investigator observed five aboveground storage tanks without an AST Facility Plan [30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.5(a)(4)].</p>	<p>Total Assessed: \$39,000</p> <p>Total Deferred: \$7,800 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$31,200</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. On May 4, 2008, obtained authorization to discharge industrial storm water under a TPDES Multi-Sector General Permit; and</p> <p>b. On April 30, 2008, submitted applications for a WPAP and an AST Facility Plan for the Site.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease all regulated activity until a WPAP has been approved by the TCEQ Austin Regional Office;</p> <p>b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.;</p> <p>c. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests or by any other deadline specified in writing;</p> <p>d. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance that approval for a WPAP and an AST Facility Plan has been obtained; and</p> <p>e. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TXR05X373, Edwards Aquifer 11-08043006A, PST78609



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

DATES	Assigned	22-Apr-2008	Screening	28-Apr-2008	EPA Due	
	PCW	28-Apr-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Cobra Stone, Inc.
Reg. Ent. Ref. No.	RN105485460
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35808	No. of Violations	2
Docket No.	2008-0855-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Enf. Coordinator	Lauren Smitherman
Multi-Media	Water Quality	EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,000
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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% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No change due to average performer classification.

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

Good Faith Effort to Comply	0.0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$238	0.0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$7,100	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$6,000**

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,000
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,200
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,800
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Screening Date 28-Apr-2008
Respondent Cobra Stone, Inc.
Case ID No. 35808
Reg. Ent. Reference No. RN105485460
Media [Statute] Edwards Aquifer
Enf. Coordinator Lauren Smitherman

Docket No. 2008-0855-MLM-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision April 29, 2008

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes
 No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 28-Apr-2008	Docket No. 2008-0855-MLM-E	PCW
Respondent Cobra Stone, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35808		<i>PCW Revision April 29, 2008</i>
Reg. Ent. Reference No. RN105485460		
Media [Statute] Edwards Aquifer		
Enf. Coordinator Lauren Smitherman		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)	
Violation Description	Failed to obtain coverage to discharge industrial storm water from a stone quarry under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit Number TXR050000.	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Release				
	Actual			Percent <input type="text" value="0%"/>	
	Potential				

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
		x			
	Matrix Notes	100% of the rule requirement was not met.			Adjustment <input type="text" value="\$9,000"/>

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
monthly	x
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

mark only one with an x

Violation Base Penalty

Two monthly events are recommended based on the investigation date (March 26, 2008) to the screening date (April 28, 2008).

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$15"/>	Violation Final Penalty Total <input type="text" value="\$2,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,000"/>	

Economic Benefit Worksheet

Respondent Cobra Stone, Inc.
Case ID No. 35808
Reg. Ent. Reference No. RN105485460
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	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	\$2,000	26-Mar-2008	4-May-2008	0.11	\$1	\$14	\$15
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	\$100	26-Mar-2008	4-May-2008	0.11	\$1	n/a	\$1
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to obtain a storm water permit and to develop and implement a storm water pollution prevention plan (SWP3). Date required is the date of the investigation. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,100 **TOTAL** \$15

Screening Date 28-Apr-2008	Docket No. 2008-0855-MLM-E	PCW			
Respondent Cobra Stone, Inc.		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35808		<i>PCW Revision April 29, 2008</i>			
Reg. Ent. Reference No. RN105485460					
Media [Statute] Edwards Aquifer					
Enf. Coordinator Lauren Smitherman					
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code §§ 213.4(a)(1) and 213.5(a)(4)				
Violation Description	Failed to obtain approval of an Aboveground Storage Tank ("AST") Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on March 26, 2008. Specifically, the investigator observed five aboveground storage tanks without an AST Facility Plan.				
	Base Penalty	\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major Moderate Minor			
	Actual	<input type="text"/>	Percent <input type="text" value="0%"/>		
	Potential	<input type="text"/>			
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.				
	Adjustment				\$9,000
\$1,000					
Violation Events					
	Number of Violation Events	2	Number of violation days	33	
	<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	\$2,000
		monthly	x		
		quarterly	<input type="text"/>		
		semiannual	<input type="text"/>		
		annual	<input type="text"/>		
	Single event	<input type="text"/>			
	Two monthly events are recommended based on the investigation date (March 26, 2008) to the screening date (April 28, 2008).				
Economic Benefit (EB) for this violation			Statutory Limit Test		
	Estimated EB Amount	\$76	Violation Final Penalty Total	\$2,000	
	This violation Final Assessed Penalty (adjusted for limits)			\$2,000	

Economic Benefit Worksheet

Respondent: Cobra Stone, Inc.
Case ID No.: 35808
Reg. Ent. Reference No.: RN105485460
Media: Edwards Aquifer
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	26-Mar-2008	31-Aug-2008	0.43	\$4	\$72	\$76
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: Estimated cost reflects the amount to prepare, submit, and obtain approval of an AST Facility Plan. Date required is the investigation date. The final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$2,500

TOTAL \$76



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision April 29, 2008

TCEQ

DATES	Assigned	22-Apr-2008	Screening	28-Apr-2008	EPA Due	
	PCW	28-Apr-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Cobra Stone, Inc.
Reg. Ent. Ref. No.	RN105485460
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35808	No. of Violations	1	
Docket No.	2008-0855-MLM-E	Order Type	1660	
Media Program(s)	Edwards Aquifer	Enf. Coordinator	Lauren Smitherman	
Multi-Media		EC's Team	Enforcement Team 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

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 Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> X	(mark with x)

Notes

Total EB Amounts Enhancement* **Subtotal 6**
 Approx. 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 indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 28-Apr-2008

Docket No. 2008-0855-MLM-E

PCW

Respondent Cobra Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35808

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN105485460

Media [Statute] Edwards Aquifer

Enf. Coordinator Lauren Smitherman

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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 judgements 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 28-Apr-2008

Docket No. 2008-0855-MLM-E

PCW

Respondent Cobra Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35808

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN105485460

Media [Statute] Edwards Aquifer

Enf. Coordinator Lauren Smitherman

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Cobra Stone, Inc.
Case ID No. 35808
Reg. Ent. Reference No. RN105485460
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	26-Mar-2008	31-Aug-2008	0.43	\$7	\$144	\$152
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

Estimated cost reflects the amount to prepare, submit, and obtain approval of a WPAP. Date required is the investigation date. The final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$152

Compliance History

Customer/Respondent/Owner-Operator: CN603299223 COBRA STONE, INC. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105485460 STONE QUARRY 1 Classification: AVERAGE BY Site Rating: 3.01
DEFAULT

ID Number(s): STORMWATER PERMIT TXR05X373

Location: 1085 CR 239, WILLIAMSON CO , TX, 76527

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: May 21, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 21, 2003 to May 21, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Lauren Smitherman Phone: 512-239-5223

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 04/16/2008 (640504)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
COBRA STONE, INC.
RN105485460**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0855-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cobra Stone, 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a stone quarry located at 1085 County Road 239 in Williamson County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 21, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-Nine Thousand Dollars (\$39,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirty-One Thousand Two Hundred Dollars (\$31,200) of the administrative

- penalty and Seven Thousand Eight Hundred Dollars (\$7,800) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. 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.
 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On May 4, 2008, obtained authorization to discharge industrial storm water under a Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit; and
 - b. On April 30, 2008, submitted applications for a Water Pollution Abatement Plan ("WPAP") and an Aboveground Storage Tank ("AST") Facility Plan for the Site.
 10. 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 Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to obtain coverage to discharge industrial storm water from a stone quarry under TPDES Multi-Sector General Permit No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on March 26, 2008.
2. Failed to obtain approval of a WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.5(a)(1), as documented during an investigation conducted on March 26, 2008. Specifically, the investigator observed quarry activities on a combined area of approximately 11.4 acres.
3. Failed to obtain approval of an AST Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.5(a)(4), as documented during an investigation conducted on March 26, 2008. Specifically, the investigator observed five aboveground storage tanks without an AST Facility Plan.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Cobra Stone, Inc., Docket No. 2008-0855-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, the Respondent shall cease all regulated activity until a WPAP has been approved by the TCEQ Austin Regional Office;
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 2.a in accordance with Ordering Provision 2.e below;
 - c. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests or by any other deadline specified in writing;
 - d. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance that approval for a WPAP and an AST Facility Plan has been obtained, in accordance with Ordering Provision 2.e below; and
 - e. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

CONFIDENTIAL

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
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed 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 Agreed 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.
6. This Agreed 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 Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

MEMORANDUM

TO: THE PRESIDENT

DATE:

BY: [Name]

Subject: [Faint text]

[Faint paragraph of text]

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Orrellin
For the Executive Director

10/30/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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.

Pedro Aguado
Signature

8/25/08
Date

Pedro Aguado
Name (Printed or typed)
Authorized Representative of
Cobra Stone, Inc.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

