

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.: 2005-0106-MLM-E TCEQ ID: RN104318845 CASE NO.: 23604**  
**RESPONDENT NAME: MATBON, INC.**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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"/> WATER RIGHTS
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 2395 South Farm-to-Market Road 1665, Wise County</p> <p><b>TYPE OF OPERATION:</b> Sand pit</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 17, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney:</b> Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p><b>TCEQ Enforcement Coordinator:</b> Ms. Merrilee Gerberding-Hupp, Water Enforcement Section, MC 169, (512) 239-4490</p> <p><b>TCEQ Regional Contact:</b> Mr. Sid Slocum, DFW Regional Office, MC R-4 (817) 588-5901</p> <p><b>Respondent:</b> Mr. James Boney, President, Matbon, Inc., 3340 Roy Orr Blvd., Grand Prairie, Texas 75050</p> <p><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b>                      May 25, 2004 and November 30, 2004</p> <p><b>Date of NOV/NOE Relating to this Case:</b>                      July 16, 2004 (NOV) and December 14, 2004 (NOE)</p> <p><b>Background Facts:</b></p> <p>The EDFRP was filed on October 14, 2005. The EDFARP was filed on April 26, 2006. The Respondent filed an answer on May 4, 2006. The Respondent signed an Agreed Order on September 20, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>MLM</b></p> <p>1. Failed to obtain authorization to discharge storm water associated with industrial activity to the water in the State through an individual permit or the Multi-Sector General Permit No. TXR050000 ("MSGP") issued under the Texas Pollutant Discharge Elimination System ("TPDES") [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(a)].</p> <p>2. Failed to obtain a water right prior to impounding and using State water as documented on November 30, 2004 [30 TEX. ADMIN. CODE § 297.11 and TEX. WATER CODE § 11.081].</p>	<p><b>Initial Calculated Penalty:</b> \$17,325</p> <p><b>Total Assessed:</b> \$13,860*</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b>                      \$589/\$13,271</p> <p>The Respondent has paid \$589 of the administrative penalty. The remaining amount of \$13,271 of the administrative penalty shall be payable in 23 monthly payments of \$577 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b>                      September 2002</p> <p><b>*Explanation of Initial Calculated Penalty Reduction:</b></p> <p>This case was settled for less than the penalty amount calculated after considering the risks of litigation.</p>	<p><b>Technical Requirement(s)</b></p> <p>Within 30 days, the Respondent shall:</p> <ol style="list-style-type: none"> <li>1. Develop and implement a Storm Water Pollution Prevention Plan ("SWP3") in accordance with the requirements of Texas Pollutant Discharge Elimination System general permit TXR050000.</li> <li>2. Submit an administratively complete Notice of Intent for authorization to discharge under Texas Pollutant Discharge Elimination System general permit TXR050000.</li> <li>3. Within 90 days, cease the impoundment of State water at the Facility; and</li> <li>4. Within 105 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision December 10, 2004

<b>DATES</b>	<b>Assigned</b>	21-Dec-2004				
	<b>PCW</b>	13-Jun-2005	<b>Screening</b>	05-Jan-2005	<b>Priority Due</b>	19-Feb-2005
					<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Matbon, Inc.
<b>Reg. Ent. Ref. No.</b>	RN104318845
<b>Additional ID No(s).</b>	Water Rights No. None
<b>Facility/Site Region</b>	4-Dallas/Fort Worth <input type="text"/>
<b>Major/Minor Source</b>	Minor Source <input type="text"/>

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	23604	<b>No. of Violations</b>	1
<b>Docket No.</b>	2005-0106-MLM-E	<b>Order Type</b>	1660 without deferral <input type="text"/>
<b>Case Priority</b>	3 <input type="text"/>	<b>Enf. Coordinator</b>	Joseph Daley <input type="text"/>
<b>Media Program(s)</b>	Water Rights <input type="text"/>	<b>EC's Team</b>	Enforcement Team 7 <input type="text"/>
<b>Multi-Media</b>			
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$5,500</b>
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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.

<b>Compliance History</b>	5% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$275</b>
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**Notes** The respondent received one NOV on July 16, 2004 with violations that were the same or similar as this enforcement action.

<b>Culpability</b>	No <input type="text"/>	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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**Notes** The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with a small x)

**Notes** The respondent is not yet in compliance.

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$173	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$5,775</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<input type="text"/>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

<b>Final Penalty Amount</b>	<b>\$5,775</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,775</b>
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<b>DEFERRAL</b>	<input type="text"/>	<b>Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** No deferral is recommended due to a previous NOV issued to the facility in the last five years with violations that were the same or similar as this enforcement case.

<b>PAYABLE PENALTY</b>	<b>\$5,775</b>
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<b>Screening Date</b> 05-Jan-2005	<b>Docket No.</b> 2005-0106-MLM-E	<b>PCW</b>
<b>Respondent</b> Matbon, Inc.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 23604	<i>PCW Revision December 10, 2004</i>	
<b>Reg. Ent. Reference No.</b> RN104318845		
<b>Additional ID No(s).</b> Water Rights No. None		
<b>Media [Statute]</b> Water Rights		
<b>Enf. Coordinator</b> Joseph Daley		
<b>Site Address</b>	2395 South Farm-to-Market Road 1665, Chico, Wise County	

**Compliance History Worksheet**

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

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written 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>	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)</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)** 5%

>> **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**

The respondent received one NOV on July 16, 2004 with violations that were the same or similar as this enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

<b>Screening Date</b> 05-Jan-2005	<b>Docket No.</b> 2005-0106-MLM-E	<b>PCW</b>
<b>Respondent</b> Matbon, Inc.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 23604	<i>PCW Revision December 10, 2004</i>	
<b>Reg. Ent. Reference No.</b> RN104318845		
<b>Additional ID No(s).</b> Water Rights No. None		
<b>Media [Statute]</b> Water Rights		
<b>Enf. Coordinator</b> Joseph Daley		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Primary Rule Cite(s)</b>	<input type="text" value="30 Texas Admin. Code § 297.11 and Texas Water Code § 11.081"/>	
<b>Secondary Rule Cite(s)</b>	<input type="text"/>	
<b>Violation Description</b>	<input type="text" value="Failure to obtain a water right prior to impounding and using State water, as documented during investigations conducted on November 30, 2004. Specifically water from a tributary of Big Sandy Creek was being impounded at the facility by a large pit."/>	
<b>Base Penalty</b>	<input type="text" value="\$5,000"/>	

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
	<b>Harm</b>	
<b>Release</b>	Major    Moderate    Minor	
Actual	<input type="text"/>	<b>Percent</b> <input type="text"/>
Potential	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification    Major    Moderate    Minor	
	<input type="text"/> <input checked="" type="checkbox"/> <input type="text"/> <input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	<input type="text" value="The respondent failed to comply with 100% of the rule requirement."/>	
<b>Adjustment</b>	<input type="text" value="-\$4,500"/>	

<b>Base Penalty Subtotal</b>	<input type="text" value="\$500"/>
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<b>Violation Events</b>														
<b>Number of Violation Events</b>	<input type="text" value="11"/>													
<i>mark only one use a small x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;"><i>daily</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>monthly</i></td><td><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;"><i>quarterly</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>semiannual</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>annual</i></td><td><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>single event</i></td><td><input type="text"/></td></tr> </table>	<i>daily</i>	<input type="text"/>	<i>monthly</i>	<input checked="" type="checkbox"/>	<i>quarterly</i>	<input type="text"/>	<i>semiannual</i>	<input type="text"/>	<i>annual</i>	<input type="text"/>	<i>single event</i>	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$5,500"/>
<i>daily</i>	<input type="text"/>													
<i>monthly</i>	<input checked="" type="checkbox"/>													
<i>quarterly</i>	<input type="text"/>													
<i>semiannual</i>	<input type="text"/>													
<i>annual</i>	<input type="text"/>													
<i>single event</i>	<input type="text"/>													
<input type="text" value="Eleven monthly events are recommended from the date of investigation, May 25, 2004, to the 60 day settlement deadline, April 8, 2005."/>														
<b>Economic Benefit (EB) for this violation      Statutory Limit Test</b>														
<b>Estimated EB Amount</b>	<input type="text" value="\$173"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$5,775"/>												
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$5,775"/>												

### Economic Benefit Worksheet

**Respondent:** Matbon, Inc.  
**Case ID No.:** 23604  
**Reg. Ent. Reference No.:** RN104318845  
**Additional ID No(s):** Water Rights No. None  
**Media [Statute]:** Water Rights  
**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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$2,000	25-May-2004	14-Feb-2006	1.7	\$173	n/a	\$173
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount to obtain a water right, calculated from the date of investigation to the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$2,000

**TOTAL** \$173

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision December 10, 2004

<b>DATES</b>	<b>Assigned</b>	21-Dec-2004					
	<b>PCW</b>	13-Jun-2005	<b>Screening</b>	05-Jan-2005	<b>Priority Due</b>	19-Feb-2005	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Matbon, Inc.
<b>Reg. Ent. Ref. No.</b>	RN104318845
<b>Additional ID No(s).</b>	Stormwater Permit No. None
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor Source

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	23604	<b>No. of Violations</b>	1
<b>Docket No.</b>	2005-0106-MLM-E	<b>Order Type</b>	1660 without deferral
<b>Case Priority</b>	3	<b>Enf. Coordinator</b>	Joseph Daley
<b>Media Program(s)</b>	Water Quality	<b>EC's Team</b>	Enforcement Team 7
<b>Multi-Media</b>			
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$11,000
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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.

<b>Compliance History</b>	5% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$550
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**Notes** The respondent received one NOV with same or similar violations on July 16, 2004.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)

**Notes** The respondent is not yet in compliance.

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$173	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,550
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

<b>Final Penalty Amount</b>	\$11,550
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,550
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<b>DEFERRAL</b>		<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** No deferral is recommended due to a previous NOV issued to the facility in the last five years for same or similar violations.

<b>PAYABLE PENALTY</b>	\$11,550
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<b>Screening Date</b> 05-Jan-2005	<b>Docket No.</b> 2005-0106-MLM-E	<b>PCW</b>
<b>Respondent</b> Matbon, Inc.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 23604	<i>PCW Revision December 10, 2004</i>	
<b>Reg. Ent. Reference No.</b> RN104318845		
<b>Additional ID No(s).</b> Stormwater Permit No. None		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Joseph Daley		
<b>Site Address</b>	2395 South Farm-to-Market Road 1665, Chico, Wise County	

### Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action ( <i>number of NOV's meeting criteria</i> )	1	5%
	Other written NOV's	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 (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 ( <i>number of audits for which notices were</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)** 5%

**>> 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** The respondent received one NOV with same or similar violations on July 16, 2004.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

<b>Screening Date</b> 05-Jan-2005	<b>Docket No.</b> 2005-0106-MLM-E	<b>PCW</b>
<b>Respondent</b> Matbon, Inc.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 23604	<i>PCW Revision December 10, 2004</i>	
<b>Reg. Ent. Reference No.</b> RN104318845		
<b>Additional ID No(s).</b> Stormwater Permit No. None		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Joseph Daley		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Primary Rule Cite(s)</b>	30 Texas Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(a)	
<b>Secondary Rule Cite(s)</b>		
<b>Violation Description</b>	Failure to obtain authorization to discharge storm water associated with industrial activity to water in the state through an individual permit or the Multi-Sector General Permit, as documented during inspections conducted on May 25, 2004 and November 30, 2004. Specifically the respondent was operating a sand pit without authorization to discharge storm water.	
<b>Base Penalty</b>		\$10,000

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual				
	Potential				
				<b>Percent</b> <input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
		X			
				<b>Percent</b> <input type="text" value="10%"/>	
<b>Matrix Notes</b>	The respondent failed to comply with 100% of the rule requirement.				
<b>Adjustment</b>				-\$9,000	

<b>Base Penalty Subtotal</b>	\$10,000
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<b>Violation Events</b>			
<b>Number of Violation Events</b>		11	
<i>mark only one use a small x</i>	<i>daily</i>		
	<i>monthly</i>	X	
	<i>quarterly</i>		
	<i>semiannual</i>		
	<i>annual</i>		
	<i>single event</i>		
			<b>Violation Base Penalty</b>
			\$11,000
Eleven monthly events are recommended from the date of investigation, May 25, 2004, to the 60 day settlement deadline, April 8, 2005.			

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$173	<b>Violation Final Penalty Total</b>	\$11,550
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$11,550	

### Economic Benefit Worksheet

**Respondent:** Matbon, Inc.  
**Case ID No.:** 23604  
**Reg. Ent. Reference No.:** RN104318845  
**Additional ID No(s):** Stormwater Permit No. None  
**Media [Statute]:** Water Quality  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$2,000	25-May-2004	14-Feb-2006	1.7	\$173	n/a	\$173
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount of cost of submitting an NOI and preparing a storm water prevention plan, calculated from the date authorization was required to the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$2,000

**TOTAL** \$173

## Compliance History

Customer/Respondent/Owner-Operator:	CN600505317    Matbon Inc.	Classification: AVERAGE	Rating: 6.290
Regulated Entity:	RN104318845    MATBON INC	Classification: AVERAGE	Site Rating: 2.50
ID Number(s):			
Location:	2395 SOUTH FM 1665, CHICO, TX, 76431	Rating Date: 9/1/04 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	January 11, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 11, 2000 to January 11, 2005		

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

Name: Joseph Daley Phone: 239-3308

### Site Compliance History Components

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

### 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 | 12/13/2004 | (343747) |
| 2 | 07/15/2004 | (282494) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |                 |   |          |  |
|-----------------|---|----------|--|
| Date:           | 07/16/2004  | (282494) |  |
| Self Report?    | NO  |          |  |
| Citation:       | 30 TAC Chapter 281, SubChapter A 281.25(a)(4)<br>TWC Chapter 26 26.121  |          |  |
| Description:    | Failure to obtain authorization to discharge storm water associated with an industrial activity to water in the state. Your regulated activity requires coverage under the Multi-Sector Industrial General Permit, TXR050000. |          |  |
| Classification: | Major   |          |  |
- F. Environmental audits.  
N/A
- Description:
- 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  
MATBON, INC.,  
RN104318845

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2005-0106-MLM-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Matbon, Inc. ("Matbon") under the authority of TEX. WATER CODE chs. 7, 11, and 26, and 40 C.F.R. pt. 122. The Executive Director of the TCEQ, represented by the Litigation Division, and Matbon, appear before the Commission and together stipulate that:

1. Matbon owns and operates a sand pit located at 2395 South Farm-to-Market Road 1665, Chico, Wise County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 11 and 26, and TCEQ rules.
3. The Commission and Matbon agree that the Commission has jurisdiction to enter this Agreed Order, and that Matbon is subject to the Commission's jurisdiction.
4. Matbon received notice of the violation alleged in Section II ("Allegations") Paragraph 1 on or about July 21, 2004.
5. Matbon received notice of the violation alleged in Section II ("Allegations") Paragraph 2 on or about December 19, 2004.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Matbon of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of thirteen thousand eight hundred sixty dollars (\$13,860.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Matbon has paid five hundred eighty-nine dollars (\$589.00) of the administrative penalty. The remaining amount of thirteen thousand two hundred seventy-one dollars (\$13,271.00) of the administrative penalty shall be payable in 23 monthly payments of five hundred seventy-seven dollars (\$577.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Matbon fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Matbon to meet the payment schedule of this Agreed Order constitutes the failure by Matbon to timely and satisfactorily comply with all of the terms of this Agreed Order.
8. 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.
9. The Executive Director of the TCEQ and Matbon have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
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 Matbon 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

Matbon is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(a) by failing to obtain authorization to discharge storm water associated with industrial activity to the water in the State through an individual permit or the Multi-Sector General Permit No. TXR050000

("MSGP") issued under the Texas Pollutant Discharge Elimination System ("TPDES") as documented on May 25, 2004.

2. 30 TEX. ADMIN. CODE § 297.11 and TEX. WATER CODE § 11.081 by failing to obtain a water right prior to impounding and using State water as documented on November 30, 2004.

### III. DENIALS

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

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Matbon pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and Matbon'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Matbon, Inc., Docket No. 2005-0106-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. Matbon shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Matbon shall:
    - i. Develop and implement a Storm Water Pollution Prevention Plan ("SWP3") in accordance with the requirements of Texas Pollutant Discharge Elimination System general permit TXR050000;
    - ii. Submit an administratively complete Notice of Intent for authorization to discharge under Texas Pollutant Discharge Elimination System general permit TXR050000 to:

Texas Commission on Environmental Quality  
Storm Water Processing Center, MC 228  
P.O. Box 13087  
Austin, TX 787811-3087

- b. Within 90 days after the effective date of this Agreed Order, Matbon shall cease the impoundment of State water at the Facility; and
- c. Within 105 days after the effective date of this Agreed Order, Matbon shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

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

and

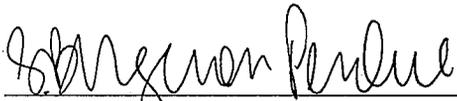
Mr. Sid Slocum, Water Section Manager  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Matbon. Matbon is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Matbon 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, Matbon's failure to comply is not a violation of this Agreed Order. Matbon shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Matbon shall notify the Executive Director within seven days after Matbon 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 Matbon shall be made in writing to the Executive Director. Extensions are not effective until Matbon 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 Matbon 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Matbon, or three days after the date on which the Commission mails notice of the Order to Matbon, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

11/20/07

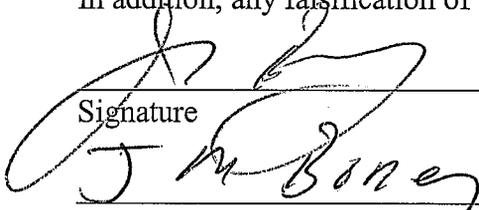
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed or typed)  
Authorized representative of  
Matbon, Inc.

9-20-07  
\_\_\_\_\_  
Date

Pres.  
\_\_\_\_\_  
Title