

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1204-AIR-E **TCEQ ID:** RN102166758 **CASE NO.:** 34308

RESPONDENT NAME: Azteca Milling, L.P.

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 checked="" type="checkbox"/> AIR	<input 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 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 type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Dawn Corn Milling Facility, 4819 Farm-To-Market Road 809, Deaf Smith County</p> <p>TYPE OF OPERATION: Corn milling</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6162; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Michael Foss, Production Manager, Azteca Milling, L.P., P.O. Box 56, Dawn, Texas 79025 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 14, 2007</p> <p>Date of NOV/NOE Relating to this Case: July 3, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Two violations were documented.</p> <p>AIR</p> <p>1) Failed to submit semi-annual deviation reports for Federal Operating Permit No. O-2806. Specifically, semi-annual deviation reports for the period December 27, 2005 through June 26, 2006 and June 27, 2006 through December 26, 2006 were due by July 26, 2006 and January 26, 2007, respectively, but were not received until July 10, 2007 [30 TEX. ADMIN. CODE § 122.145(2), Federal Operating Permit No. O-2806, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-2806 for at least each 12-month period following the initial issuance of the permit. Specifically, the annual compliance certification for the period December 27, 2005 to December 26, 2006 was due by January 26, 2007, but was not received until July 10, 2007 [30 TEX. ADMIN. CODE § 122.146(1), Federal Operating Permit No. O-2806, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$10,350</p> <p>Total Deferred: \$2,070 <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: \$8,280</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>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on July 10, 2007, the Respondent submitted deviation reports for the periods December 27, 2005 through June 26, 2006 and June 27, 2006 through December 26, 2006 and an Annual Compliance Certification Form for the period December 27, 2005 through December 26, 2006.</p>

Additional ID No(s): DD0067Q



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	9-Jul-2007	Screening	23-Jul-2007	EPA Due	29-Mar-2008
	PCW	17-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Azteca Milling, L.P.		
Reg. Ent. Ref. No.	RN102166758		
Facility/Site Region	1-Amarillo	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	34308	No. of Violations	2
Docket No.	2007-1204-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Jessica Rhodes
Multi-Media		EC's Team	EnforcementTeam 4
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 checked="" type="checkbox"/>
N/A	(mark with x)	

Notes

Total EB Amounts **0% 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. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 23-Jul-2007

Docket No. 2007-1204-AIR-E

PCW

Respondent Azteca Milling, L.P.

Policy Revision 2 (September 2002)

Case ID No. 34308

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102166758

Media [Statute] Air

Enf. Coordinator Jessica Rhodes

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	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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) 48%

>> 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

Penalty enhancement due to two 1660-style Agreed Orders and four NOVs for unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 48%

Screening Date 23-Jul-2007	Docket No. 2007-1204-AIR-E	PCW												
Respondent Azteca Milling, L.P.		<small>Policy Revision 2 (September 2002)</small>												
Case ID No. 34308		<small>PCW Revision June 26, 2007</small>												
Reg. Ent. Reference No. RN102166758														
Media [Statute] Air														
Enf. Coordinator Jessica Rhodes														
Violation Number <input type="text" value="1"/>														
Rule Cite(s)	30 Tex. Admin. Code § 122.145(2), Federal Operating Permit No. O-2806 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)													
Violation Description	Failed to submit semi-annual deviation reports for Federal Operating Permit No. O-2806. Specifically, semi-annual deviation reports for the period December 27, 2005 through June 26, 2006 and June 27, 2006 through December 26, 2006 were due by July 26, 2006 and January 26, 2007, respectively, but were not received until July 10, 2007.													
	Base Penalty	<input type="text" value="\$10,000"/>												
>> Environmental, Property and Human Health Matrix														
OR	Harm													
	Release Major Moderate Minor													
	Actual <input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="0%"/>												
Potential <input type="text"/> <input type="text"/> <input type="text"/>														
>> Programmatic Matrix														
	Falsification Major Moderate Minor													
	<input type="text"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Percent <input type="text" value="25%"/>												
Matrix Notes	100% of the rule requirement was not met.													
	Adjustment	<input type="text" value="\$7,500"/>												
		<input type="text" value="\$2,500"/>												
Violation Events														
	Number of Violation Events <input type="text" value="2"/>	<input type="text" value="352"/> Number of violation days												
<small>mark only one with an x</small>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 50px;"></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black; text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty <input type="text" value="\$5,000"/>
daily														
monthly														
quarterly														
semiannual														
annual														
single event	x													
	Two single events are recommended for the two deviation reports.													
Economic Benefit (EB) for this violation		Statutory Limit Test												
Estimated EB Amount	<input type="text" value="\$10"/>	Violation Final Penalty Total <input type="text" value="\$6,900"/>												
	This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$6,900"/>												

Economic Benefit Worksheet

Respondent Azteca Milling, L.P.
Case ID No. 34308
Reg. Ent. Reference No. RN102166758
Media Air
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	\$200	26-Jul-2006	10-Jul-2007	1.0	\$10	n/a	\$10
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit deviation reports. Date required is the due date for the first deviation report. Final date is the date that compliance was achieved.

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

\$200

TOTAL

\$10

<p>Screening Date 23-Jul-2007</p> <p>Respondent Azteca Milling, L.P.</p> <p>Case ID No. 34308</p> <p>Reg. Ent. Reference No. RN102166758</p> <p>Media [Statute] Air</p> <p>Enf. Coordinator Jessica Rhodes</p> <p>Violation Number <input type="text" value="2"/></p> <p>Rule Cite(s) 30 Tex. Admin. Code § 122.146(1), Federal Operating Permit No. O-2806 General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)</p> <p>Violation Description Failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-2806 for at least each 12-month period following the initial issuance of the permit. Specifically, the annual compliance certification for the period December 27, 2005 to December 26, 2006 was due by January 26, 2007, but was not received until July 10, 2007.</p>	<p>Docket No. 2007-1204-AIR-E</p> <p>PCW</p> <p><i>Policy Revision 2 (September 2002)</i></p> <p><i>PCW Revision June 26, 2007</i></p>																			
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
<p>OR</p> <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Harm																			
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Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
>> Programmatic Matrix																				
<table border="1" style="margin-left: 20px;"> <tr> <td></td> <td>Falsification</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> <td></td> </tr> <tr> <td></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="25%"/></td> </tr> </table> <p>Matrix Notes <input type="text" value="100% of the rule requirement was not met."/></p>		Falsification	Major	Moderate	Minor			<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>	Adjustment <input type="text" value="\$7,500"/>							
	Falsification	Major	Moderate	Minor																
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>															
<input type="text" value="\$2,500"/>																				
Violation Events																				
<p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="168"/> Number of violation days</p> <table border="1" style="margin-left: 20px;"> <tr> <td rowspan="5" style="font-size: small;">mark only one with an x</td> <td>daily</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td>quarterly</td> <td><input type="text"/></td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table> <p style="margin-left: 20px;">Violation Base Penalty <input type="text" value="\$2,500"/></p> <p style="margin-left: 20px; border: 1px solid black; padding: 5px;">One single event is recommended for the one compliance certification.</p>	mark only one with an x	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x							
mark only one with an x		daily	<input type="text"/>																	
		monthly	<input type="text"/>																	
		quarterly	<input type="text"/>																	
		semiannual	<input type="text"/>																	
	annual	<input type="text"/>																		
single event	x																			
Economic Benefit (EB) for this violation																				
Estimated EB Amount <input type="text" value="\$5"/>	Statutory Limit Test																			
Violation Final Penalty Total <input type="text" value="\$3,450"/>																				
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,450"/>																				

Economic Benefit Worksheet

Respondent Azteca Milling, L.P.
Case ID No. 34308
Reg. Ent. Reference No. RN102166758
Media Air
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

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	\$200	26-Jan-2007	10-Jul-2007	0.5	\$5	n/a	\$5
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare an annual compliance certification. Date required is the due date for the annual compliance certification. Final date is the date that compliance was achieved.

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

\$200

TOTAL

\$5

Compliance History

Customer/Respondent/Owner-Operator:	CN600127914 Azteca Milling, L. P.	Classification: AVERAGE	Rating: 7.60
Regulated Entity:	RN102166758 DAWN CORN MILLING FACILITY	Classification: AVERAGE	Site Rating: 19.38
ID Number(s):	AIR NEW SOURCE PERMITS PERMIT 37806 AIR NEW SOURCE PERMITS ACCOUNT NUMBER DD0067Q AIR NEW SOURCE PERMITS AFS NUM 4811700023 WASTEWATER PERMIT WQ0004052000 WASTEWATER PERMIT WQ0004052000 AIR OPERATING PERMITS PERMIT 2806 AIR OPERATING PERMITS ACCOUNT NUMBER DD0067Q		
Location:	4819 FM 809 DEAF SMITH COUNTY	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 01 - AMARILLO		
Date Compliance History Prepared:	July 23, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 23, 2002 to July 23, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jessica Rhodes	Phone:	512-239-2879

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? | 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.
- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Effective Date: 08/29/2005 | ADMINORDER 2004-1642-AIR-E |
| Classification: Major | |
| Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter B 122.130(b)(1)
5C THC Chapter 382, SubChapter A 382.054 | |
| Description: Failed to submit an abbreviated Title V Federal Operating Permit application and continued operating. | |
| Effective Date: 12/30/2005 | ADMINORDER 2005-1080-IWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Permit Special Provisions PERMIT | |
| Description: Failure by the facility to prevent an unauthorized discharge from the permitted irrigation area. | |
- 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 | 08/18/2004 | (290561) |
| 2 | 12/06/2004 | (341437) |
| 3 | 12/27/2004 | (344719) |
| 4 | 05/18/2005 | (381279) |

5 01/27/2006 (452268)
 6 01/31/2006 (453498)
 7 06/03/2006 (465770)
 8 01/18/2007 (531223)
 9 06/24/2007 (564046)
 10 07/03/2007 (565810)

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

Date: 11/12/2004 (339576)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT SPECIAL PROVISIONS
 Description: Failure by the facility to prevent an unauthorized discharge from the permitted irrigation area.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT Standard Provisions
 Description: Failure by the facility to report an unauthorized discharge from their irrigation application site.

Date: 12/03/2004 (341437)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IV. Conditions of the Permit, Page 2
 Description: Failure to meet pH effluent limitations (6.0 s.u.-9.0 s.u.) as permit requires.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.1
 Rqmt Prov: PERMIT V. Special Provisions, Item G.
 Description: Failure to submit soil sample analysis to the TCEQ by September of 2004.
 Self Report? NO Classification: Moderate
 Rqmt Prov: PERMIT IV. Conditions of the Permit.
 Description: Failure to meet BOD5 land application loading rate limit (100 lbs/acre/day) as required by permit.
 Self Report? NO Classification: Moderate
 Rqmt Prov: PERMIT IV. Conditions of the Permit.
 Description: Failure to meet nitrogen application rate (350 lbs/acre/year for Jose Wheat Grass) as required by permit.

Date: 12/12/2005 (435641)
 Self Report? NO Classification: Major
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 Description: Failure to prevent an unauthorized discharge from the facility.

Date: 01/30/2006 (452268)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IV., Conditions of the Permit, page 2.
 Description: Failure to meet permit effluent limitations for pH.
 Self Report? NO Classification: Moderate
 Rqmt Prov: PERMIT V., Special Provisions, D., page 3
 Description: Failure to post the permit required (do not drink the water) signs at the wastewater effluent irrigation site.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter A 290.20
 Rqmt Prov: PERMIT V., Special Provisions, P., page 5
 Description: Failure to maintain the proper buffer zones for all water wells located on the effluent land application site.

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
AZTECA MILLING, L.P.
RN102166758

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1204-AIR-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 Azteca Milling, L.P. ("Azteca") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Azteca appear before the Commission and together stipulate that:

1. Azteca owns and operates a corn milling plant at 4819 Farm-To-Market Road 809 in Deaf Smith County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Azteca agree that the Commission has jurisdiction to enter this Agreed Order, and that Azteca is subject to the Commission's jurisdiction.
4. Azteca received notice of the violations alleged in Section II ("Allegations") on or about July 8, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Azteca of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Three Hundred Fifty Dollars (\$10,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Azteca has paid Eight Thousand Two Hundred Eighty Dollars (\$8,280) of the administrative penalty and Two Thousand Seventy Dollars (\$2,070) is deferred contingent upon

Azteca'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 Azteca fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Azteca 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 Azteca 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 on July 10, 2007, Azteca submitted deviation reports for the periods December 27, 2005 through June 26, 2006 and June 27, 2006 through December 26, 2006 and an Annual Compliance Certification Form for the period December 27, 2005 through December 26, 2006.
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 Azteca 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 Plant, Azteca is alleged to have:

1. Failed to submit semi-annual deviation reports for Federal Operating Permit No. O-2806, in violation of 30 TEX. ADMIN. CODE § 122.145(2), Federal Operating Permit No. O-2806, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 14, 2007. Specifically, semi-annual deviation reports for the period December 27, 2005 through June 26, 2006 and June 27, 2006 through December 26, 2006 were due by July 26, 2006 and January 26, 2007, respectively, but were not received until July 10, 2007.
2. Failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-2806 for at least each 12-month period following the initial issuance of the permit, in violation of 30 TEX. ADMIN. CODE § 122.146(1), Federal Operating Permit No. O-2806, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 14, 2007. Specifically, the annual compliance certification for the period December 27, 2005 to December 26, 2006 was due by January 26, 2007, but was not received until July 10, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

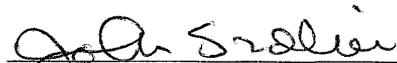
1. It is, therefore, ordered by the TCEQ that Azteca pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Azteca's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section 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: Azteca Milling, L.P., Docket No. 2007-1204-AIR-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. The provisions of this Agreed Order shall apply to and be binding upon Azteca. Azteca is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Azteca 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Azteca, or three days after the date on which the Commission mails notice of the Order to Azteca, 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

Date 12/03/07

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.



Signature

Date

Michael Foss

Name (Printed or typed)
Authorized Representative of
Azteca Milling, L.P.

Sept 19, 2007

Date
Production MGR

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.

