

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0239-AIR-E **TCEQ ID:** RN101970465 **CASE NO.:** 35360
RESPONDENT NAME: Southern Star Concrete, 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 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: Frisco Plant, 15050 State Highway 121, Frisco, Collin County</p> <p>TYPE OF OPERATION: Concrete batching operation</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 June 23, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Jennifer Pester, Environmental Manager, Southern Star Concrete, Inc., 8505 Freeport Parkway, Suite 200, Irving, Texas 75063 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: December 6, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 30, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to maintain the central baghouse for the cement silo and batching operation in good working order and operated properly during Plant operation. Specifically, during the December 6, 2007 emissions event, it was noted that the baghouse was being overloaded and that the operator opened the baghouse door during operations which resulted in 500 pounds of dust emissions being released into the atmosphere for a duration of approximately 1 hour and 5 minutes. This is above the reportable quantity of 100 pounds. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices to minimize emissions, the Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b) [30 TEX. ADMIN. CODE § 106.4(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to report an emissions event within 24 hours of the discovery of the emissions event [30 TEX. ADMIN. CODE § 101.201(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$1,045</p> <p>Total Deferred: \$209 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$418</p> <p>Total Paid to General Revenue: \$418</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 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 Plant:</p> <p>a. Replaced the bin indicator located inside the receiving silo, increased the volume of the audible over-fill alarm, replaced the light bulb of the visual over-fill alarm, and installed an audible and visual over-fill alarm inside the batch house on January 3, 2008 which were the root cause of the emissions event; and</p> <p>b. Submitted the required emissions event report on January 30, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> |

Additional ID No(s): CP0084V

Attachment A
Docket Number: 2008-0239-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|--------------------------------|--|
| Respondent: | Southern Star Concrete, Inc. |
| Payable Penalty Amount: | Eight Hundred Thirty-Six Dollars (\$836) |
| SEP Amount: | Four Hundred Eighteen Dollars (\$418) |
| Type of SEP: | Pre-approved |
| Third-Party Recipient: | City of Fort Worth—"Mow Down Air Pollution" lawn mower exchange event |
| Location of SEP: | Collin County |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to host a one-day event in Tarrant County where 167 operational gas-powered walk-behind lawn mowers may be traded in for a discount on a clean-running electric mower. The City of Fort Worth ("the City") shall coordinate with retailers and/or manufacturers to provide a 20% discount off the retail cost of electric mowers. The City will pay 40% of the retail cost with SEP funds to keep out-of-pocket consumer costs comparable to that of buying a gas-powered mower. The discounted price for the consumer will be approximately \$209 for an electric mower that usually costs \$449.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing approximately 167 gasoline-powered mowers from service and result in an estimated reduction of seven tons of volatile organic compound emissions and removal of 15 tons of carbon monoxide emissions per year. The event will assist in educating citizens on ways they can reduce ozone-forming emissions.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 4-Feb-2008 | Screening | 5-Feb-2008 | EPA Due | |
| | PCW | 12-Feb-2008 | | | | |

| | | | |
|--|------------------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Southern Star Concrete, Inc. | | |
| Reg. Ent. Ref. No. | RN101970465 | | |
| Facility/Site Region | 4-Fort Worth | Major/Minor Source | Minor |

| | | | |
|--------------------------|----------------------|--------------------------|---------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 35360 | No. of Violations | 2 |
| Docket No. | 2008-0239-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Enf. Coordinator | Jorge Ibarra, P.E., |
| Multi-Media | | EC's Team | Enforcement Team 3 |
| 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 **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

| | | |
|----------------------|-------------------|-------------------------------------|
| | Before NOV | NOV to EDRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | X |
| N/A | | (mark with x) |

Notes

Subtotal 6

Total EB Amounts *Capped at the Total EB \$ Amount

Approx. Cost of Compliance

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 **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 5-Feb-2008

Docket No. 2008-0239-AIR-E

PCW

Respondent Southern Star Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35360

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101970465

Media [Statute] Air

Enf. Coordinator Jorge Ibarra, P.E.,

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>) | 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 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) 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 was issued one NOV with the same/similar type of violations.

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

| | | | | | |
|---|--|---|--------------------------------|--|--|
| Screening Date 5-Feb-2008 | Docket No. 2008-0239-AIR-E | PCW | | | |
| Respondent Southern Star Concrete, Inc. | | <i>Policy Revision 2 (September 2002)</i> | | | |
| Case ID No. 35360 | | <i>PCW Revision January 29, 2008</i> | | | |
| Reg. Ent. Reference No. RN101970465 | | | | | |
| Media [Statute] Air | | | | | |
| Enf. Coordinator Jorge Ibarra, P.E., | | | | | |
| Violation Number <input type="text" value="1"/> | | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 106.4(c) and Tex. Health & Safety Code § 382.085(b) | | | | |
| Violation Description | Failed to maintain the central baghouse for the cement silo and batching operation in good working order and operated properly during Plant operation. Specifically, during the December 6, 2007 emissions event, it was noted that the baghouse was being overloaded and that the operator opened the baghouse door during operations which resulted in 500 pounds of dust emissions being released into the atmosphere for a duration of approximately 1 hour and 5 minutes. This is above the reportable quantity of 100 pounds. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices to minimize emissions, the Respondent failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222(b). | | | | |
| | Base Penalty | <input type="text" value="\$10,000"/> | | | |
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | Release | Harm | | | |
| | | Major Moderate Minor | | | |
| | Actual | <input type="text"/> | <input type="text" value="x"/> | | |
| | Potential | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="10%"/> | |
| >> Programmatic Matrix | | | | | |
| | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0%"/> |
| Matrix Notes | Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation. | | | | |
| | Adjustment | <input type="text" value="\$9,000"/> | | | |
| | | | | <input type="text" value="\$1,000"/> | |
| Violation Events | | | | | |
| | Number of Violation Events | <input type="text" value="1"/> | Number of violation days | <input type="text" value="1"/> | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | | | |
| | monthly | <input type="text"/> | | | |
| | quarterly | <input type="text" value="x"/> | | Violation Base Penalty <input type="text" value="\$1,000"/> | |
| | semiannual | <input type="text"/> | | | |
| | annual | <input type="text"/> | | | |
| | single event | <input type="text"/> | | | |
| | One quarterly event is recommended. | | | | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | <input type="text" value="\$8"/> | | Violation Final Penalty Total | <input type="text" value="\$950"/> | |
| | This violation Final Assessed Penalty (adjusted for limits) | | | <input type="text" value="\$950"/> | |

Economic Benefit Worksheet

Respondent Southern Star Concrete, Inc.
Case ID No. 35360
Reg. Ent. Reference No. RN101970465
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 | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | \$200 | 6-Dec-2007 | 3-Jan-2008 | 0.1 | \$1 | n/a | \$1 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$2,000 | 6-Dec-2007 | 3-Jan-2008 | 0.1 | \$8 | n/a | \$8 |

Notes for DELAYED costs

Estimated cost to develop and implement measures to improve operations and/or maintenance practices to prevent the reoccurrence of emissions events and to provide additional operator training. Date Required is the date of the emissions event, Final Date is the compliance date.

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

\$2,200

TOTAL

\$8

| | | | | | | | | | | | | | | | | | | | | |
|---|---|----------------------|----------------------|--|-----------|----------------------|----------------------|----------------------|----------------------|----------------------|--|---|--|----------------------|----------------------|--|-----------|----------------------|----------------------|----------------------|
| <p>Screening Date 5-Feb-2008</p> <p>Respondent Southern Star Concrete, Inc.</p> <p>Case ID No. 35360</p> <p>Reg. Ent. Reference No. RN101970465</p> <p>Media [Statute] Air</p> <p>Enf. Coordinator Jorge Ibarra, P.E.,</p> <p>Violation Number <input type="text" value="2"/></p> <p>Rule Cite(s) 30 Tex. Admin. Code § 101.201(a) and Tex. Health & Safety Code § 382.085(b)</p> <p>Violation Description Failed to report an emissions event within 24 hours of the discovery of the emissions event. The initial report was due December 7, 2007 and was not submitted until January 30, 2008.</p> | <p>Docket No. 2008-0239-AIR-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right;"><small>Policy Revision 2 (September 2002)</small></p> <p style="text-align: right;"><small>PCW Revision January 29, 2008</small></p> | | | | | | | | | | | | | | | | | | | |
| Base Penalty <input type="text" value="\$10,000"/> | | | | | | | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | | | | | |
| OR | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="4" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center;">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 | | | | | | | | | | | | | | | | | | | | |
| 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 | | | | | | | | | | | | | | | | | | | | |
| Matrix Notes | <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td style="text-align: right;">Percent <input type="text" value="1%"/></td> </tr> <tr> <td colspan="5" style="text-align: center; padding: 5px;">Greater than 70% of the rule requirement was met.</td> </tr> </table> <p style="text-align: right;">Adjustment <input type="text" value="\$9,900"/></p> | Falsification | Major | Moderate | Minor | | <input type="text"/> | <input type="text"/> | <input type="text"/> | x | Percent <input type="text" value="1%"/> | Greater than 70% of the rule requirement was met. | | | | | | | | |
| Falsification | Major | Moderate | Minor | | | | | | | | | | | | | | | | | |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | x | Percent <input type="text" value="1%"/> | | | | | | | | | | | | | | | | |
| Greater than 70% of the rule requirement was met. | | | | | | | | | | | | | | | | | | | | |
| <input type="text" value="\$100"/> | | | | | | | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | | | | | |
| <p>Number of Violation Events <input type="text" value="1"/></p> <p>Number of violation days <input type="text" value="1"/></p> <p><small>mark only one with an x</small></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;">x</td></tr> </table> <p style="text-align: right;">Violation Base Penalty <input type="text" value="\$100"/></p> | daily | <input type="text"/> | monthly | <input type="text"/> | quarterly | <input type="text"/> | semiannual | <input type="text"/> | annual | <input type="text"/> | single event | x | <p style="text-align: center; border: 1px solid black; padding: 5px;">One single event is recommended.</p> | | | | | | | |
| 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="\$1"/> | Statutory Limit Test | | | | | | | | | | | | | | | | | | | |
| Violation Final Penalty Total <input type="text" value="\$95"/> | This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$95"/> | | | | | | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent Southern Star Concrete, Inc.
Case ID No. 35360
Reg. Ent. Reference No. RN101970465
Media Air
Violation No. 2

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

| Item Description | Item Cost <small>No commas or \$</small> | 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 | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$200 | 7-Dec-2007 | 30-Jan-2008 | 0.1 | \$1 | n/a | \$1 |

Notes for DELAYED costs

Estimated cost to properly submit the required notification. Date Required is the date the emissions event notification was due. Final Date is the compliance date.

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 \$1

Compliance History

| | | | |
|---|--|------------------------------|---------------------|
| Customer/Respondent/Owner-Operator: | CN602421679 Southern Star Concrete, Inc. | Classification: AVERAGE | Rating: 1.35 |
| Regulated Entity: | RN101970465 FRISCO PLANT | Classification: AVERAGE | Site Rating: 3.00 |
| ID Number(s): | AIR NEW SOURCE PERMITS | PERMIT | 8095B |
| | AIR NEW SOURCE PERMITS | PERMIT | 36016 |
| | AIR NEW SOURCE PERMITS | PERMIT | 40590 |
| | AIR NEW SOURCE PERMITS | PERMIT | 41386 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | CP0084V |
| | AIR NEW SOURCE PERMITS | PERMIT | 70457 |
| | AIR NEW SOURCE PERMITS | AFS NUM | 4808500206 |
| Location: | 15050 State Highway 121, Frisco, Texas 75035 | Rating Date: September 01 07 | Repeat Violator: NO |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | |
| Date Compliance History Prepared: | February 14, 2008 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | February 14, 2003 to February 14, 2008 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | |
| Name: | Jorge Ibarra, P.E. | Phone: | (817) 588-5890 |

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.
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 | 04/22/2004 | (269148) |
| 2 | 01/29/2008 | (615045) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|--------------|--|--------------------------|
| Date: | 04/22/2004 | (269148) |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 106, SubChapter E 106.144(2) 30 TAC Chapter 106, SubChapter H 106.201(3) 5C THC Chapter 382, SubChapter A 382.085(a) 5C THC Chapter 382, SubChapter A 382.085(b) | |
| Description: | On March 5 and 23, 2004 particulate matter was observed emanating from in-plant roads and leaving plant property at Southern Star Plant No. 1009 in Frisco, Texas. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 106, SubChapter A 106.4(c) 5C THC Chapter 382, SubChapter A 382.085(a) 5C THC Chapter 382, SubChapter A 382.085(b) | |
| Description: | On March 5, 2004 air pollution abatement equipment was documented as not operating properly at Southern Star Plant No. 1009 in Frisco, Texas. | |

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
SOUTHERN STAR CONCRETE, INC.
RN101970465

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0239-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 Southern Star Concrete, Inc. ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a concrete batching operation at 15050 State Highway 121 in Frisco, Collin 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 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 February 4, 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 One Thousand Forty-Five Dollars (\$1,045) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Eighteen Dollars (\$418) of the administrative penalty and Two Hundred Nine Dollars (\$209) 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. Four Hundred Eighteen Dollars (\$418) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 Plant:
 - a. Replaced the bin indicator located inside the receiving silo, increased the volume of the audible over-fill alarm, replaced the light bulb of the visual over-fill alarm, and installed an audible and visual over-fill alarm inside the batch house on January 3, 2008 which were the root cause of the emissions event; and
 - b. Submitted the required emissions event report on January 30, 2008.
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 Plant, the Respondent is alleged to have:

1. Failed to maintain the central baghouse for the cement silo and batching operation in good working order and operated properly during Plant operation, in violation of 30 TEX. ADMIN. CODE § 106.4(c) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 6, 2007. Specifically, during the December 6, 2007 emissions event, it was noted that the baghouse was being overloaded and that the operator opened the baghouse door during operations which resulted in 500 pounds of dust emissions being released into the atmosphere for a duration of approximately 1 hour and 5 minutes. This is above the reportable quantity of 100 pounds. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices to minimize emissions, the

Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b).

2. Failed to report an emissions event within 24 hours of the discovery of the emissions event, in violation of 30 TEX. ADMIN. CODE § 101.201(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 6, 2007.

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: Southern Star Concrete, Inc., Docket No. 2008-0239-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

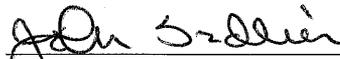
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Hundred Eighteen Dollars (\$418) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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 Plant 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

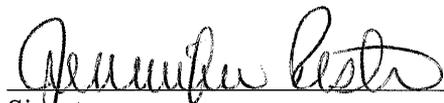
6/30/2008
Date

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.



Signature

March 28, 2008
Date

Jennifer Pester

Name (Printed or typed)
Authorized Representative of
Southern Star Concrete, Inc.

Environmental Manager

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.

Attachment A
Docket Number: 2008-0239-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|--------------------------------|--|
| Respondent: | Southern Star Concrete, Inc. |
| Payable Penalty Amount: | Eight Hundred Thirty-Six Dollars (\$836) |
| SEP Amount: | Four Hundred Eighteen Dollars (\$418) |
| Type of SEP: | Pre-approved |
| Third-Party Recipient: | City of Fort Worth-“Mow Down Air Pollution” lawn mower exchange event |
| Location of SEP: | Collin County |

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to host a one-day event in Tarrant County where 167 operational gas-powered walk-behind lawn mowers may be traded in for a discount on a clean-running electric mower. The City of Fort Worth (“the City”) shall coordinate with retailers and/or manufacturers to provide a 20% discount off the retail cost of electric mowers. The City will pay 40% of the retail cost with SEP funds to keep out-of-pocket consumer costs comparable to that of buying a gas-powered mower. The discounted price for the consumer will be approximately \$209 for an electric mower that usually costs \$449.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing approximately 167 gasoline-powered mowers from service and result in an estimated reduction of seven tons of volatile organic compound emissions and removal of 15 tons of carbon monoxide emissions per year. The event will assist in educating citizens on ways they can reduce ozone-forming emissions.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

City of Fort Worth
Attn: Haily Summerford, Environmental Management Department
1000 Throckmorton Street
Fort Worth, Texas 76102

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

