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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0501-AIR-E TCEQ ID: RN100225978 CASE NO.: 37475**  
**RESPONDENT NAME: Ash Grove Texas, L.P.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Ash Grove Texas, 900 Gifco Road, Midlothian, Ellis County</p> <p><b>TYPE OF OPERATION:</b> cement manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 September 28, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="padding-left: 20px;"><b>TCEQ Attorney/SEP Coordinator:</b> None</p> <p style="padding-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387</p> <p style="padding-left: 20px;"><b>Respondent:</b> Mr. Michael Crittenden, Environmental Manager, Ash Grove Texas, L.P., 900 Gifco Road, Midlothian, Texas 76065  Mr. Kevin D. Blankenship, Plant Manager, Ash Grove Texas, L.P., 900 Gifco Road, Midlothian, Texas 76065</p> <p style="padding-left: 20px;"><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>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 6, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 1, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to submit a semi-annual deviation report within 30 days after the end of the certification period [30 TEX. ADMIN. CODE § 122.145(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$5,725</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,725</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On May 5, 2009, submitted the semi-annual deviation report for the period of November 8, 2007 to April 10, 2008; and</p> <p>b. Expanded the environmental department staff by hiring a new full time employee in October, 2008 to serve as Environmental Manager with responsibility for environmental compliance matters, including reporting requirements.</p>

Additional ID No(s): ED00300



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2009

TCEQ

<b>DATES</b>	<b>Assigned PCW</b>	6-Apr-2009	<b>Screening</b>	8-Apr-2009	<b>EPA Due</b>	28-Dec-2009
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Ash Grove Texas, L.P.
<b>Reg. Ent. Ref. No.</b>	RN100225978
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37475	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0501-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Juliet Morgan
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ 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>	\$2,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.		
<b>Compliance History</b>	139.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>
<b>Notes</b>	Penalty enhancement due to eight similar NOV's and 42 non-similar NOV's and one 1660 Agreed Order. Reduction due to three notices of audit and one disclosure of a violation.	
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>
<b>Notes</b>	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$250
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>
<b>Total EB Amounts</b>	\$2,466	*Capped at the Total EB \$ Amount
<b>Approx. Cost of Compliance</b>	\$50,000	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,725
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>
Reduces or enhances the Final Subtotal by the Indicated percentage.		
<b>Notes</b>		
	<b>Final Penalty Amount</b>	\$5,725
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,725
<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
<b>Notes</b>	No deferral is recommended for Findings Orders.	
<b>PAYABLE PENALTY</b>		\$5,725

**Screening Date** 8-Apr-2009

**Docket No.** 2009-0501-AIR-E

**PCW**

**Respondent** Ash Grove Texas, L.P.

Policy Revision 2 (September 2002)

**Case ID No.** 37475

PCW Revision October 30, 2000

**Reg. Ent. Reference No.** RN100225978

**Media [Statute]** Air

**Enf. Coordinator** Juliet Morgan

**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)	8	40%
	Other written NOVs	42	84%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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)	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<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)** 139%

>> **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 eight similar NOVs and 42 non-similar NOVs and one 1660 Agreed Order. Reduction due to three notices of audit and one disclosure of a violation.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 139%

<b>Screening Date</b> 8-Apr-2009	<b>Docket No.</b> 2009-0501-AIR-E	<b>PCW</b> <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2009</small>														
<b>Respondent</b> Ash Grove Texas, L.P.																
<b>Case ID No.</b> 37475																
<b>Reg. Ent. Reference No.</b> RN100225978																
<b>Media [Statute]</b> Air																
<b>Enf. Coordinator</b> Juliet Morgan																
<b>Violation Number</b> <input type="text" value="1"/>																
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 122.145(2)(B) and Tex. Health & Safety Code § 382.085(b)															
<b>Violation Description</b>	Failed to submit a semi-annual deviation report within 30 days of the end of the certification period. Specifically, the Respondent did not submit the semi-annual deviation report for the November 8, 2007 to April 10, 2008 reporting period.															
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
	<b>Harm</b>															
	Release    Major    Moderate    Minor															
<b>OR</b>	Actual	<input type="text"/>														
	Potential	<input type="text"/>														
	<b>Percent</b>	<input type="text" value="0%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																
	Falsification    Major    Moderate    Minor															
	<input type="text"/>	<input type="text" value="x"/>														
	<input type="text"/>	<input type="text"/>														
	<input type="text"/>	<input type="text"/>														
<b>Percent</b>	<input type="text" value="25%"/>															
<b>Matrix Notes</b>	The Respondent failed to meet 100% of the rule requirements.															
	<b>Adjustment</b>	<input type="text" value="\$7,500"/>														
		<input type="text" value="\$2,500"/>														
<b>Violation Events</b>																
<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="360"/> <b>Number of violation days</b>														
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</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><input checked="" type="text" value="x"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="text" value="x"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input checked="" type="text" value="x"/>															
	One single event is recommended.															
<b>Good Faith Efforts to Comply</b>																
	<b>10.0% Reduction</b>	<input type="text" value="\$250"/>														
	Before NOV    NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>															
Ordinary	<input type="text" value="x"/>															
N/A	(mark with x)															
<b>Notes</b>	The Respondent achieved compliance on May 5, 2009.															
	<b>Violation Subtotal</b>	<input type="text" value="\$2,250"/>														
<b>Economic Benefit (EB) for this violation</b>																
	<b>Statutory Limit Test</b>															
<b>Estimated EB Amount</b>	<input type="text" value="\$2,466"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$5,725"/>														
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$5,725"/>															

## Economic Benefit Worksheet

**Respondent** Ash Grove Texas, L.P.  
**Case ID No.** 37475  
**Reg. Ent. Reference No.** RN100225978  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50,000	10-May-2008	5-May-2009	0.99	\$2,466	n/a	\$2,466
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost for additional training and oversight to ensure the proper preparation and submittal of deviation reports. Date required is the date the report should have been submitted. Final date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$50,000 TOTAL \$2,466

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600132161 Ash Grove Texas, L.P. Classification: AVERAGE Rating: 2.52  
 Regulated Entity: RN100225978 ASH GROVE TEXAS Classification: AVERAGE Site Rating: 0.75

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	ED00340
	AIR OPERATING PERMITS	PERMIT	1054
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD007926496
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32941
	WASTEWATER	PERMIT	WQ0002427000
	WASTEWATER	PERMIT	TPDES0083437
	WASTEWATER	PERMIT	TX0083437
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	11627
	AIR NEW SOURCE PERMITS	PERMIT	16731
	AIR NEW SOURCE PERMITS	PERMIT	1
	AIR NEW SOURCE PERMITS	PERMIT	6230
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	ED00340
	AIR NEW SOURCE PERMITS	REGISTRATION	76379
	AIR NEW SOURCE PERMITS	AFS NUM	4813900002
	AIR NEW SOURCE PERMITS	REGISTRATION	71845
	AIR NEW SOURCE PERMITS	REGISTRATION	74145
	AIR NEW SOURCE PERMITS	PERMIT	74149
	AIR NEW SOURCE PERMITS	PERMIT	76414
	AIR NEW SOURCE PERMITS	REGISTRATION	30262
	AIR NEW SOURCE PERMITS	REGISTRATION	30263
	AIR NEW SOURCE PERMITS	REGISTRATION	30264
	AIR NEW SOURCE PERMITS	REGISTRATION	30265
	AIR NEW SOURCE PERMITS	REGISTRATION	34329
	AIR NEW SOURCE PERMITS	REGISTRATION	80048
	AIR NEW SOURCE PERMITS	REGISTRATION	82608
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0700075
	TIRES	REGISTRATION	76905
	WATER LICENSING	LICENSE	0700075
	TIRES	REGISTRATION	26858
	STORMWATER	PERMIT	TXR05U036
	WASTEWATER LICENSING	LICENSE	WQ0002427000

Location: 900 GIFCO RD, MIDLOTHIAN, TX, 76065

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: April 14, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 08, 2004 to April 08, 2009

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

Name: Juliet Morgan Phone: (512) 239-0735

### 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/operator of the site during the compliance period?
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

6. Rating Date: 9/1/2008 Repeat Violator: NO

**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: 10/23/2008

ADMINORDER 2008-0407-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)

30 TAC Chapter 122, SubChapter B 122.146(2)

5C THSC Chapter 382 382.085(b)

Description: Failed to submit the required annual compliance certification for the period of October 13, 2006 through October 12, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

30 TAC Chapter 122, SubChapter B 122.145(2)(B)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

30 TAC Chapter 122, SubChapter B 122.146(1)

30 TAC Chapter 122, SubChapter B 122.146(2)

5C THSC Chapter 382 382.085(b)

Description: Failed to timely submit the required deviation report for the period of October 13, 2006 through April 12, 2007 and to submit the required deviation report for the period of April 13, 2007 through October 12, 2007.

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. (CEEDS Inv. Track. No.)

1	04/08/2004	(262347)
2	04/26/2004	(360668)
3	05/17/2004	(269749)
4	05/17/2004	(269752)
5	05/17/2004	(269754)
6	05/17/2004	(269785)
7	05/17/2004	(269787)
8	05/17/2004	(269791)
9	05/26/2004	(360669)
10	06/28/2004	(360670)
11	06/30/2004	(277536)
12	07/23/2004	(360671)
13	07/27/2004	(283045)
14	07/27/2004	(283057)
15	07/27/2004	(283064)
16	08/26/2004	(360672)
17	09/22/2004	(360673)
18	10/04/2004	(291070)
19	10/07/2004	(292679)
20	10/07/2004	(292770)
21	10/28/2004	(333923)
22	11/05/2004	(386691)
23	11/18/2004	(288940)
24	11/18/2004	(339303)
25	11/24/2004	(341367)
26	11/29/2004	(386692)

27	12/15/2004	(339941)
28	12/23/2004	(386693)
29	12/30/2004	(345144)
30	01/28/2005	(386694)
31	02/14/2005	(345967)
32	02/28/2005	(424509)
33	03/09/2005	(345903)
34	03/17/2005	(350263)
35	03/17/2005	(372596)
36	03/22/2005	(347249)
37	03/22/2005	(350023)
38	03/22/2005	(351034)
39	03/23/2005	(371783)
40	03/23/2005	(424510)
41	03/30/2005	(373505)
42	03/30/2005	(373511)
43	04/13/2005	(376115)
44	04/27/2005	(373368)
45	05/04/2005	(424511)
46	05/31/2005	(424512)
47	06/21/2005	(424514)
48	07/05/2005	(398631)
49	07/22/2005	(424513)
50	08/08/2005	(400698)
51	08/18/2005	(404674)
52	08/18/2005	(404883)
53	08/24/2005	(405031)
54	08/25/2005	(445260)
55	09/16/2005	(399589)
56	09/16/2005	(400772)
57	09/22/2005	(445261)
58	10/12/2005	(406926)
59	10/12/2005	(418898)
60	10/12/2005	(418970)
61	10/25/2005	(433725)
62	10/26/2005	(476506)
63	10/28/2005	(400866)
64	10/28/2005	(435395)
65	11/07/2005	(433356)
66	11/07/2005	(433448)
67	11/14/2005	(435849)
68	11/18/2005	(437531)
69	11/21/2005	(476507)
70	11/29/2005	(434193)
71	12/01/2005	(436882)
72	12/22/2005	(476508)
73	12/28/2005	(439609)
74	12/28/2005	(439654)
75	01/04/2006	(449853)
76	01/05/2006	(438412)
77	01/18/2006	(476509)
78	02/01/2006	(451169)
79	02/24/2006	(476504)
80	03/02/2006	(455076)

81	03/02/2006	(456090)
82	03/22/2006	(476505)
83	03/30/2006	(459052)
84	04/05/2006	(461494)
85	04/06/2006	(457998)
86	04/06/2006	(458121)
87	04/10/2006	(503519)
88	04/20/2006	(461595)
89	04/26/2006	(462429)
90	04/26/2006	(462460)
91	04/26/2006	(462521)
92	05/02/2006	(462728)
93	05/10/2006	(465326)
94	05/10/2006	(465537)
96	05/15/2006	(503520)
97	05/25/2006	(464297)
98	06/07/2006	(503521)
99	07/05/2006	(525877)
100	07/21/2006	(479921)
101	07/21/2006	(479990)
102	07/21/2006	(480132)
103	07/21/2006	(480232)
104	07/21/2006	(480982)
105	07/26/2006	(484198)
106	07/27/2006	(480295)
107	08/18/2006	(525878)
108	09/20/2006	(509354)
109	09/20/2006	(510555)
110	09/20/2006	(510754)
111	09/25/2006	(525879)
112	09/26/2006	(488417)
113	10/10/2006	(512745)
114	10/10/2006	(514923)
115	10/11/2006	(512772)
116	10/12/2006	(513526)
117	10/19/2006	(513536)
118	10/19/2006	(513714)
119	10/19/2006	(513846)
120	10/24/2006	(550326)
121	10/26/2006	(514909)
122	10/27/2006	(513802)
123	11/17/2006	(519597)
124	11/21/2006	(517729)
125	11/22/2006	(550327)
126	11/28/2006	(519615)
127	12/12/2006	(532203)
128	12/12/2006	(532226)
129	12/12/2006	(532244)
130	12/13/2006	(518900)
131	12/20/2006	(550328)
132	12/28/2006	(535120)
133	01/18/2007	(586140)
134	01/23/2007	(535661)
135	01/31/2007	(536371)

136 02/08/2007 (536918)  
137 02/22/2007 (586135)  
138 03/22/2007 (540321)  
139 03/27/2007 (586136)  
140 04/04/2007 (586137)  
141 04/11/2007 (554413)  
142 04/26/2007 (539463)  
143 05/17/2007 (560860)  
144 05/29/2007 (560203)  
145 05/29/2007 (586138)  
146 06/21/2007 (586139)  
147 07/10/2007 (565290)  
148 07/20/2007 (604657)  
149 08/08/2007 (565454)  
150 08/23/2007 (604658)  
151 08/30/2007 (570727)  
152 10/02/2007 (572266)  
153 10/04/2007 (596270)  
154 10/11/2007 (597013)  
155 10/12/2007 (572163)  
156 10/15/2007 (624228)  
157 11/02/2007 (597183)  
158 11/13/2007 (597017)  
159 11/14/2007 (624230)  
160 12/10/2007 (624229)  
161 12/20/2007 (611110)  
162 12/20/2007 (611997)  
163 01/02/2008 (693530)  
164 01/03/2008 (612855)  
165 02/07/2008 (675161)  
166 02/07/2008 (675162)  
167 02/28/2008 (637446)  
168 03/07/2008 (614969)  
169 03/20/2008 (616199)  
170 03/20/2008 (616287)  
171 03/31/2008 (639964)  
172 04/16/2008 (639506)  
173 05/07/2008 (693527)  
174 05/07/2008 (693528)  
175 05/07/2008 (693529)  
176 05/21/2008 (618869)  
177 05/21/2008 (618883)  
178 05/21/2008 (618889)  
179 05/21/2008 (640852)  
180 06/04/2008 (640595)  
181 06/10/2008 (657097)  
182 06/25/2008 (714808)  
183 07/02/2008 (684936)  
184 07/03/2008 (683122)  
185 07/16/2008 (681917)  
186 07/16/2008 (683127)  
187 07/16/2008 (683128)  
188 07/16/2008 (683808)  
189 07/16/2008 (683811)

190 07/16/2008 (685413)  
 191 07/23/2008 (714809)  
 192 08/04/2008 (683129)  
 193 08/04/2008 (685399)  
 194 08/04/2008 (685406)  
 195 08/04/2008 (687503)  
 196 08/12/2008 (689558)  
 197 08/20/2008 (714810)  
 198 08/27/2008 (687423)  
 199 09/10/2008 (714811)  
 200 10/06/2008 (700458)  
 201 10/16/2008 (703172)  
 202 10/16/2008 (703604)  
 203 10/16/2008 (704324)  
 204 10/20/2008 (714812)  
 205 11/05/2008 (730710)  
 206 12/02/2008 (707118)  
 207 12/02/2008 (708189)  
 208 12/03/2008 (730711)  
 209 12/22/2008 (708671)  
 210 01/02/2009 (730712)  
 211 01/06/2009 (722318)  
 212 01/09/2009 (722153)  
 213 02/24/2009 (736523)  
 214 03/06/2009 (737804)  
 215 04/02/2009 (726512)  
 216 04/07/2009 (726868)  
 217 04/08/2009 (736647)  
 218 04/08/2009 (736889)

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

Date: 04/30/2004 (360669) CN600132161  
 Self YES Classificati Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 05/31/2004 (360670) CN600132161  
 Self YES Classificati Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2004 (360671) CN600132161  
 Self YES Classificati Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 07/31/2004 (360672) CN600132161  
 Self YES Classificati Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 08/31/2004 (360673) CN600132161  
 Self YES Classificati Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2004 (386691) CN600132161  
Self YES Classificati Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
Date: 10/04/2004 (291070)

Self NO Classificati Moderate  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Opacity in Kiln No. 3 exceeded established limits.  
Date: 10/28/2004 (333923)

Self NO Classificati Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit a notification of an excess opacity event within 24 hours of discovery of the event.

Date: 10/31/2004 (386692) CN600132161  
Self YES Classificati Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
Date: 11/18/2004 (288940)

Self NO Classificati Minor  
Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to provide notification of an excess opacity event within 24 hours of discovery as required.

Date: 11/30/2004 (386693) CN600132161  
Self YES Classificati Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (386694) CN600132161

Self Report? YES Classificati Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (424509) CN600132161

Self Report? YES Classificati Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/14/2005 (345967)

Self Report? NO Classificati Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to include violations of 30 TAC 101.201 on deviation report dated

Self Report? NO Classificati Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.144(1)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain records of opacity monitoring for the purposes of certifying compliance with the facility's Title V Permit.

Date: 03/10/2005 (345903)

Self Report? NO Classificati Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)

Description: Failure to submit initial notification within 24 hours of discovery of opacity event.

Self Report? NO Classificati Moderate

Citation:	30 TAC Chapter 101, SubChapter F 101.201(e)		
Description:	Failure to submit initial notification within 24 hours of discovery of opacity event.		
Self Report?	NO	Classificati	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(e)		
Description:	Failure to submit initial notification within 24 hours of discovery of opacity event.		
Self Report?	NO	Classificati	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to meet 30 TAC 111.111(a)(1)(A).		
Self Report?	NO	Classificati	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to comply with 30 TAC 111.111(a)(1)(B).		
Self Report?	NO	Classificati	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to meet 30 TAC 111.111(a)(1)(B).		
Date:	03/31/2005 (424511)	CN600132161	
Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/30/2005 (424513)	CN600132161	
Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2005 (424514)	CN600132161	
Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2005 (445260)	CN600132161	
Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2005 (445261)	CN600132161	
Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/19/2005 (400772)		
Self Report?	NO	Classificati	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to maintain an affirmative defense due to human error for the excess opacity emissions over the visible emissions limit during this event.		
Date:	09/19/2005 (399589)		
Self Report?	NO	Classificati	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.211(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Description:	Failure to submit a final notification report for Incident No. 49483 within 2 weeks from the end of the maintenance event.		
Self Report?	NO	Classificati	Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B) 5C THC Chapter 382, SubChapter A 382.085(b)		

Description: Failure to comply with 30 TAC 111.111(a)(1)(B) and 5 THC 382.085(b).  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit a final notification report for Incident No. 51016 within two weeks from the end of the maintenance event.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to comply with 30 TAC 111.111(a)(1)(B) and 5C THC 382.085(b).  
 Date: 09/30/2005 (476506) CN600132161  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2005 (476507) CN600132161  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 11/30/2005 (434193) CN600132161  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)

Description: Failure to provide suitable sampling tap on the discharge pipe of the each well prior to any treatment.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failure to compile Monthly operating Reports of Water Works Operation.  
 Date: 12/31/2005 (476509) CN600132161  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 01/06/2006 (438412)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit the permit compliance certification within 30 days of the end of the compliance certification period.  
 Date: 03/03/2006 (456090)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to comply with opacity limits set forth under 30 TAC 111.111(a)(1)(A).  
 Date: 03/31/2006 (503519) CN600132161  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 04/30/2006 (503520) CN600132161  
 Self Report? YES Classification Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 05/23/2006 (484297) CN600132161  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply the self-monitored effluent limitations.

Date: 05/31/2006 (503521) CN600132161  
 Self Report? YES Classificati Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2006 (525877) CN600132161  
 Self Report? YES Classificati Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 07/27/2006 (480295)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to comply with the 20 percent opacity limit set forth under 30 TAC  
 111.111(a)(1)(B).  
 Date: 07/27/2006 (484198)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to comply with the 30 percent opacity limit set forth under 30 TAC  
 111.111(a)(1)(B).  
 Date: 09/28/2006 (488417)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to comply with the 30 percent opacity limit set forth under 30 TAC  
 111.111(a)(1)(A).  
 Date: 11/30/2006 (519615)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to maintain an affirmative defense due to human error for the excess  
 opacity emissions generated over the visible emissions limit during this event.  
 Date: 03/23/2007 (540321)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)  
 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to comply with opacity limits set forth under 30 TAC 111.111(a)(1)(B).  
 Date: 04/30/2007 (539463)  
 Self Report? NO Classificati Moderate  
 Citation: 1, Special Condition 1 PERMIT  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to meet the carbon monoxide emission limit for Kiln 2 of 100 pounds per  
 hour.  
 Self Report? NO Classificati Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to include detailed information on all deviations occurring during the  
 period  
 on the permit compliance certification.  
 Date: 04/30/2007 (586138) CN600132161  
 Self Report? YES Classificati Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (624229) CN600132161  
 Self Report? YES Classificati Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 03/07/2008 (637029)  
 Self Report? NO Classificati Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit a Title V Permit Compliance Certification by the due date.  
 Self Report? NO Classificati Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to include all deviations on the Deviation Report.  
 Self Report? NO Classificati Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit a Deviation Report before the due date.  
 Self Report? NO Classificati Minor  
 Citation: 30 TAC Chapter 113, SubChapter C 113.100  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(d)(5)(i)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to submit a 40 CFR Part 63 Subpart LLL semiannual report by the due date.  
 Date: 04/01/2008 (639964)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to comply with the 20 percent opacity limit set forth under 30 Texas Administrative Code 111.111(a)(1)(A) during an excess opacity event that occurred on March 9, 2008. The opacity exceedance was the result of an excess opacity event that did not meet affirmative defense because it was caused by human error.  
 Date: 06/12/2008 (657097)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to comply with the 30 percent opacity limit set forth under 30 Texas Administrative Code (TAC) 111.111(a)(1)(A) during an excess opacity event that occurred on April 7, 2008. The six-minute opacity of 84.04 percent in Kiln No. 1 stack is an exceedance, and was the result of an excess opacity event that did not meet affirmative defense because it was caused by human error.  
 Date: 07/31/2008 (714810) CN600132161  
 Self Report? YES Classificati Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/21/2008 (704324)  
 Self Report? NO Classificati Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
 5C THSC Chapter 382 382.085(b)  
 Description: This follow-up investigation was conducted to resolve a Notice of Violation dated October 21, 2008.  
 Date: 10/31/2008 (730710) CN600132161  
 Self Report? YES Classificati Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/04/2008 (708189)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to comply with the 20 percent opacity limit set forth under 30 Texas  
 Administrative Code (TAC) 111.111(a)(1)(B) during an excess opacity event that  
 occurred on October 15, 2008.

Date: 01/09/2009 (722153) CN600132161  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to ensure flow measurement accuracy.

Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to maintain compliance with the permitted effluent limits for one or more  
 parameter as established in the permit.

Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the maximum monthly flow limit as established in the permit.

Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 317 317.4(b)(1)  
 Description: Failure to properly maintain the wastewater treatment plant (WWTP).

Date: 04/03/2009 (726512)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THSC Chapter 382 382.085(b)  
 Special Condition 21 PERMIT  
 Description: Failure to submit quarterly excess emission reports for the Third and Fourth  
 Quarter of 2007.

Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 O1054, Special Condition 9 OP  
 Description: Failure to perform required Compliance Assurance Monitoring for Unit 5-2A.

Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 O1054, Special Condition 9 OP  
 Description: Failure to perform required Compliance Assurance Monitoring on Unit 2-9.

Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 O1054, Special Condition 10 OP  
 Description: Failure to perform required Periodic Monitoring.

Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 O1054, Special Condition 10 OP  
 Description: Failure to perform Periodic Monitoring by not performing monthly Method 9  
 readings as required.

Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to include a deviation on the 5/7/07 - 11/7/07 Deviation Report.

Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(a)

Description: Failure to include all deviations on the Deviation Report for 4/11/08 - 10/12/08.

F. Environmental audits.

Notice of Intent Date: 09/09/2004 (334519)

Disclosure Date: 10/26/2004

Viol. Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: Failed to register for standard exemption (PBR) for grinding aid.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.10(a)

Description: DIDNT INCLUDE VOC EMISSIONS FROM FINISH MILL IN EI

Disclosure Date: 03/08/2005

Viol. Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.132(a)

30 TAC Chapter 122, SubChapter B 122.132(e)(2)(A)

Description: failed to reflect the applicability of NSPS Subpart Y to three conveyors transferring material from the solid fuel day tank to the solid fuel mills within the coal mill system in the initial Title V application

Notice of Intent Date: 09/01/2006 (514035)

No DOV Associated

Notice of Intent Date: 09/16/2008 (707466)

No DOV Associated

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  
ASH GROVE TEXAS, L.P.  
RN100225978

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-0501-AIR-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ash Grove Texas, L.P. ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

### I. FINDINGS OF FACT

1. The Respondent owns and operates a cement manufacturing plant at 900 Gifco Road in Midlothian, Ellis County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on February 6, 2009, TCEQ staff documented that the Respondent failed to submit a semi-annual deviation report within 30 days of the end of the certification period. Specifically, the Respondent did not submit the semi-annual deviation report for the November 8, 2007 to April 10, 2008 reporting period.
4. The Respondent received notice of the violations on April 6, 2009.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On May 5, 2009, submitted the semi-annual deviation report for the period of November 8, 2007 to April 10, 2008; and
  - b. Expanded the environmental department staff by hiring a new full time employee in October, 2008 to serve as Environmental Manager with responsibility for environmental compliance matters, including reporting requirements.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to submit a semi-annual deviation report within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Five Thousand Seven Hundred Twenty-Five Dollars (\$5,725) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Five Thousand Seven Hundred Twenty-Five Dollar (\$5,725) administrative penalty.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Five Thousand Seven Hundred Twenty-Five Dollars (\$5,725) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ash Grove Texas, L.P., Docket No. 2009-0501-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 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.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

Ash Grove Texas, L.P.

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**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission

*John Orlien*  
For the Executive Director

9/23/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Ash Grove Texas, L.P. I am authorized to agree to the attached Agreed Order on behalf of Ash Grove Texas, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Ash Grove Texas, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

*Kevin D. Blankenship*  
Signature

9/3/2009  
Date

Kevin D. Blankenship  
Name (Printed or typed)  
Authorized Representative of  
Ash Grove Texas, L.P.

Plant 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.