

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1287-AIR-E **TCEQ ID:** RN100850288 **CASE NO.:** 38129
RESPONDENT NAME: South Texas Aggregates, 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: South Texas Aggregates Portable Unit, 4966 North United States Highway 277, Maverick County</p> <p>TYPE OF OPERATION: Rock crushing plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Clay Coleman, Vice President, South Texas Aggregates, Inc., 4343 East Main Street, Uvalde, Texas 78801-6414 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: June 18, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 31, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to notify the Commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction within 24 hours of the discovery of an excess opacity event. Specifically, an excess opacity event occurred on June 18, 2009, but was not reported [30 TEX. ADMIN. CODE § 101.201(e) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to operate rock crushing activities within permitted limits of 10% opacity for conveyors and screens and 15% opacity for the crusher due to the failure to install permanently mounted spray bars at the inlet and outlet of the crusher, at the shaker screen or at all material transfer points. Specifically, using EPA Test Method 9, 88.95% opacity was documented from the conveyor drop points, material transfer points, shaker screen, and crusher over a six-minute period. Since this emissions event could have been avoided by better operational practices and installing spray bars, and was not reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [30 TEX. ADMIN. CODE § 116.615(2) and (9), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 39691, Special Conditions 5 and 7.a.].</p>	<p>Total Assessed: \$2,000</p> <p>Total Deferred: \$400 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,600</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Implement measures designed to ensure that excess opacity events are properly reported; and</p> <p>ii. Implement measures designed to prevent the recurrence of excess opacity events including, but not limited to, the installation of water spray bars at the inlet and outlet of the crusher, at the shaker screen or at all material transfer points.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 939691N



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Aug-2009	Screening	12-Aug-2009	EPA Due	N/A
	PCW	12-Aug-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	South Texas Aggregates, Inc.		
Reg. Ent. Ref. No.	RN100850288		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38129	No. of Violations	2
Docket No.	2009-1287-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Trina Grieco
		EC's Team	Enforcement Team 5
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 0.0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0.0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit 0.0% Enhancement* Subtotal 6

Total EB Amounts	\$121
Approx. Cost of Compliance	\$3,100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 12-Aug-2009

Docket No. 2009-1287-AIR-E

PCW

Respondent South Texas Aggregates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100850288

Media [Statute] Air

Enf. Coordinator Trina Grieco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No penalty enhancements or reductions due to lack of compliance history.

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

Screening Date 12-Aug-2009 **Docket No.** 2009-1287-AIR-E **PCW**
Respondent South Texas Aggregates, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 38129 *PCW Revision October 30, 2009*
Reg. Ent. Reference No. RN100850288
Media [Statute] Air
Enf. Coordinator Trina Grieco
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 101.201(e) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction within 24 hours of the discovery of an excess opacity event. Specifically, an excess opacity event occurred on June 18, 2009, but was not reported.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

The Respondent failed to comply with 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 54

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended for the date the report should have been submitted (June 19, 2009).

Good Faith Efforts to Comply

0.0% Reduction
 Before NOV NOV to EDRP/Settlement Offer

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent South Texas Aggregates, Inc.
Case ID No. 38129
Reg. Ent. Reference No. RN100850288
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				0.00	\$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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	19-Jun-2009	30-Mar-2010	0.78	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to complete and submit an excess opacity event report. The date required is the date the report should have been submitted and the final date is the date corrective actions are projected to be completed.

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

\$100

TOTAL

\$4

Screening Date 12-Aug-2009

Docket No. 2009-1287-AIR-E

PCW

Respondent South Texas Aggregates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100850288

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.815(2) and (9), Tex. Health & Safety Code § 382.085(b), and Permit No. 39691, Special Conditions 5 and 7.a.

Violation Description

Failed to operate rock crushing activities within permitted limits of 10% opacity for conveyors and screens and 15% opacity for the crusher due to the failure to install permanently mounted spray bars at the inlet and outlet of the crusher, at the shaker screen or at all material transfer points. Specifically, using EPA Test Method 9, 88.95% opacity was documented from the conveyor drop points, material transfer points, shaker screen, and crusher over a six-minute period. Since this emissions event could have been avoided by better operational practices and installing spray bars, and was not reported, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of contaminants that did not exceed protective levels as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended for the day excess opacity was documented (June 18, 2009).

Good Faith Efforts to Comply

	<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent South Texas Aggregates, Inc.
Case ID No. 38129
Reg. Ent. Reference No. RN100850288
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	18-Jun-2009	30-Mar-2010	0.78	\$117	n/a	\$117

Notes for DELAYED costs
 Estimated cost to install and operate water spray bars and to implement measures designed to prevent excess opacity. The date required is the date of the event and the final date is the date corrective actions are projected to be completed.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 TOTAL

\$3,000	\$117
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Compliance History Report

Customer/Respondent/Owner-Operator: CN601253529 South Texas Aggregates, Inc. Classification: AVERAGE Rating: 2.83
Regulated Entity: RN100850288 SOUTH TEXAS AGGREGATES Classification: AVERAGE Site Rating: 3.01
PORTABLE UNIT BY DEFAULT

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 39691

AIR NEW SOURCE PERMITS ACCOUNT NUMBER 939691N

Location: PORTABLE
4966 N US HWY 277, MAVERICK COUNTY, TX 78852

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: August 05, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 05, 2004 to August 05, 2009

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

Name: Trina Grieco Phone: (210) 403-4006

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
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.
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 07/31/2009 (764326)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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
SOUTH TEXAS AGGREGATES, INC.
RN100850288**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1287-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 South Texas Aggregates, 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 rock crushing plant at 4966 North United States Highway 277, Maverick 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 August 5, 2009.
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 Two Thousand Dollars (\$2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Dollars (\$1,600) of the administrative penalty and Four Hundred Dollars (\$400) is deferred contingent upon the Respondent's timely and satisfactory

compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director 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.
 10. 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.
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11. 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 notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction within 24 hours of the discovery of an excess opacity event, in violation of 30 TEX. ADMIN. CODE § 101.201(e) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 18, 2009. Specifically, an excess opacity event occurred on June 18, 2009, but was not reported.
2. Failed to operate rock crushing activities within permitted limits of 10% opacity for conveyors and screens and 15% opacity for the crusher due to the failure to install permanently mounted spray bars at the inlet and outlet of the crusher, at the shaker screen or at all material transfer points, in violation of 30 TEX. ADMIN. CODE § 116.615(2) and (9), TEX. HEALTH & SAFETY CODE § 382.085(b), and Permit No. 39691, Special Conditions 5 and 7.a., as documented during an investigation conducted on June 18, 2009. Specifically, using EPA Test Method 9, 88.95% opacity was documented from the conveyor drop points, material transfer points, shaker screen, and crusher over a six-minute period. Since this emissions event could have been avoided by better operational practices and installing spray bars, and was not reported, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

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: South Texas Aggregates, Inc., Docket No. 2009-1287-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement measures designed to ensure that excess opacity events are properly reported, in accordance with 30 TEX. ADMIN. CODE § 101.201; and
 - ii. Implement measures designed to prevent the recurrence of excess opacity events including, but not limited to, the installation of water spray bars at the inlet and outlet of the crusher, at the shaker screen or at all material transfer points, in accordance with Permit No. 39691, Special Conditions 5 and 7.a.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

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 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.
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

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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

[Signature]
For the Executive Director

10/20/2009
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.

Clay Coleman
Signature

9-16-09
Date

Clay Coleman
Name (Printed or typed)
Authorized Representative of
South Texas Aggregates, Inc.

Vice President
Title

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