

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1081-WQ-E **TCEQ ID:** RN102737780 **CASE NO.:** 36199
RESPONDENT NAME: Fort Worth Crushed Stone, L.C.

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 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 checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Unit No. 2, 7001 East Highway 377, Cresson, Hood County</p> <p>TYPE OF OPERATION: Mining and stone crushing operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on March 12, 2008, alleging that the Respondent was not following measures outlined in the Storm Water Pollution Prevention Plan. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 19, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Fred H. Brown, President, Fort Worth Crushed Stone, L.C., P.O. Box 121906, Fort Worth, Texas 76121 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: March 12, 2008</p> <p>Date of Investigation Relating to this Case: April 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: June 19, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failure to perform periodic inspections to determine the effectiveness of the control measures outlined in the Storm Water Pollution Prevention Plan ("SWP3") and to perform quarterly visual monitoring of storm water discharges since obtaining authorization to discharge on November 13, 2006 [30 TEX. ADMIN. CODE § 281.25(a)(4), Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05L416, Part III, Section A(5)(g), Section A(5)(h), and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(c)].</p> <p>2) Failure to perform an annual comprehensive site compliance evaluation since obtaining authorization to discharge on November 13, 2006 [30 TEX. ADMIN. CODE § 281.25(a)(4), TPDES General Permit No. TXR05L416, Part III, Section A(7), and 40 CFR § 122.26(c)].</p> <p>3) Failure to identify and describe vehicle tracking of sediment as a potential pollutant source within the SWP3 [30 TEX. ADMIN. CODE § 281.25(a)(4), TPDES General Permit No. TXR05L416, Part III, Section A(1)(a)(1), and 40 CFR § 122.26(c)].</p>	<p>Total Assessed: \$5,643</p> <p>Total Deferred: \$1,128 <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: \$4,515</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:</p> <p>a. On April 28, 2008, the Respondent completed the annual comprehensive site compliance evaluation;</p> <p>b. On May 5, 2008, the Respondent identified and described vehicle tracking of sediment as a potential pollutant source in the SWP3 and placed crushed recycled asphalt product in traffic areas as a control to eliminate or minimize vehicle tracking at the Facility; and</p> <p>c. On May 15, 2008, the Respondent completed the periodic inspection and the quarterly visual monitoring of storm water discharges.</p>

Additional ID No(s): TXR05L416



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	23-Jun-2008	Screening	2-Jul-2008	EPA Due	
	PCW	2-Jul-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Fort Worth Crushed Stone, L.C.
Reg. Ent. Ref. No.	RN102737780
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36199	No. of Violations	3
Docket No.	2008-1081-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lauren Smitherman
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$305
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Notes: Enhancement due to one prior NOV with a same or similar violation.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,525
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$764
 Approx. Cost of Compliance: \$750
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,880
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OTHER FACTORS AS JUSTICE MAY REQUIRE	15.6%	Adjustment	\$763
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover avoided costs.

Final Penalty Amount	\$5,643
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,643
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,128
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,515
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Screening Date 2-Jul-2008

Docket No. 2008-1081-WQ-E

PCW

Respondent Fort Worth Crushed Stone, L.C.

Policy Revision 2 (September 2002)

Case ID No. 36199

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102737780

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

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)	1	5%
	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%
<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

Enhancement due to one prior NOV with a same or similar violation.

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

Screening Date 2-Jul-2008		Docket No. 2008-1081-WQ-E		PCW	
Respondent Fort Worth Crushed Stone, L.C.		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36199		<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN102737780					
Media [Statute] Water Quality					
Enf. Coordinator Lauren Smitherman					
Violation Number		<input type="text" value="1"/>			
Rule Cite(s)		30 Tex. Admin. Code § 281.25(a)(4), Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05L416, Part III, Section A(5)(g), Section A(5)(h) and 40 Code of Federal Regulations ("CFR") § 122.26(c)			
Violation Description		Failed to perform periodic inspections to determine the effectiveness of the control measures outlined in the Storm Water Pollution Prevention Plan ("SWP3") and to perform quarterly visual monitoring of storm water discharges since obtaining authorization to discharge on November 13, 2006, as documented during the April 8, 2008 investigation.			
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<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 will or could be exposed to significant amounts of pollutants which would 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="5"/>	Number of violation days <input type="text" value="411"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	x			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
				Violation Base Penalty <input type="text" value="\$5,000"/>	
Five quarterly events are recommended beginning on the date the first inspections were due (March 31, 2007) to the date of compliance (May 15, 2008).					
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction		<input type="text" value="\$1,250"/>	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary		<input type="text"/>	<input type="text"/>		
Ordinary		x	<input type="text"/>		
N/A		<input type="text"/>	(mark with x)		
Notes		The Respondent came into compliance on May 15, 2008.			
Violation Subtotal				<input type="text" value="\$3,750"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$551"/>	Violation Final Penalty Total <input type="text" value="\$4,625"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$4,625"/>	

Economic Benefit Worksheet

Respondent: Fort Worth Crushed Stone, L.C.
Case ID No.: 36199
Reg. Ent. Reference No.: RN102737780
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$500	31-Mar-2007	15-May-2008	2.04	\$51	\$500	\$551
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The approximate cost to conduct and document inspections at the Facility for five quarters. Date Required is the date the inspections were due. Final Date is the date of compliance.

Approx. Cost of Compliance

\$500

TOTAL

\$551

Screening Date 2-Jul-2008 **Docket No.** 2008-1081-WQ-E **PCW**
Respondent Fort Worth Crushed Stone, L.C. *Policy Revision 2 (September 2002)*
Case ID No. 36199 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN102737780
Media [Statute] Water Quality
Enf. Coordinator Lauren Smitherman
Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4), TPDES General Permit No. TXR05L416, Part III, Section A(7), and 40 CFR § 122.26(c)
Violation Description Failed to perform an annual comprehensive site compliance evaluation since obtaining authorization to discharge on November 13, 2006, as documented during the April 8, 2008 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential		x		10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

One annual event is recommended based on the date the evaluation was due (December 31, 2007).

Good Faith Efforts to Comply 25.0% Reduction \$250

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

Notes The Respondent came into compliance on April 28, 2008.

Violation Subtotal \$750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$212 Violation Final Penalty Total \$925

This violation Final Assessed Penalty (adjusted for limits) \$925

Economic Benefit Worksheet

Respondent: Fort Worth Crushed Stone, L.C.
Case ID No.: 36199
Reg. Ent. Reference No.: RN102737780
Media: Water Quality
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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$200	31-Dec-2007	28-Apr-2008	1.24	\$12	\$200	\$212
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The approximate cost to conduct an evaluation at the Facility. Date Required is the date the evaluation was due. Final Date is the date of compliance.

Approx. Cost of Compliance \$200

TOTAL: \$212

Screening Date 2-Jul-2008		Docket No. 2008-1081-WQ-E		PCW	
Respondent Fort Worth Crushed Stone, L.C.		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36199		<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN102737780					
Media [Statute] Water Quality					
Enf. Coordinator Lauren Smitherman					
Violation Number	3				
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4), TPDES General Permit No. TXR05L416, Part III, Section A(1)(a)(1), and 40 CFR § 122.26(c)				
Violation Description	Failed to identify and describe vehicle tracking of sediment as a potential pollutant source within the SWP3.				
Base Penalty				\$10,000	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Major	Moderate	Minor		
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>	
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
>> Programmatic Matrix					
Falsification					
Major Moderate Minor					
<input type="checkbox"/>				<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>
<input type="checkbox"/>				<input type="checkbox"/>	
Matrix Notes	Greater than 70% of the permit requirement was met.				
Adjustment				\$9,900	
				\$100	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="27"/>			
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$100"/>		
	monthly	<input type="checkbox"/>			
	quarterly	<input type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input checked="" type="checkbox"/>			
One single event is recommended based on the investigation date (April 8, 2008).					
Good Faith Efforts to Comply		25.0%	Reduction		
		Before NOV	NOV to EDP RP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>			
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
N/A	<input type="checkbox"/>	(mark with x)			
Notes	The Respondent came into compliance on May 5, 2008.				
Violation Subtotal				\$75	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$93"/>		
This violation Final Assessed Penalty (adjusted for limits)				\$93	

Economic Benefit Worksheet

Respondent: Fort Worth Crushed Stone, L.C.
Case ID No.: 36199
Reg. Ent. Reference No.: RN102737780
Media: Water Quality
Violation No.: 3

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	8-Apr-2008	5-May-2008	0.07	\$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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The approximate cost to identify and describe vehicle tracking of sediment as a potential pollutant source in the SWP3. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	TOTAL	\$0
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Compliance History

Customer/Respondent/Owner-Operator: CN602972739 Fort Worth Crushed Stone, L.C. Classification: AVERAGE Rating: 2.05
 Regulated Entity: RN102737780 UNIT NO 2 Classification: AVERAGE Site Rating: 2.00

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59713
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59922
	AIR NEW SOURCE PERMITS	PERMIT	14574
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	914574G
	AIR NEW SOURCE PERMITS	PERMIT	8557
	AIR NEW SOURCE PERMITS	PERMIT	14909
	AIR NEW SOURCE PERMITS	PERMIT	8557A
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	908557M
	STORMWATER	PERMIT	TXR05L416

Location: 7001 E HWY 377, CRESSON, HOOD CO, TX Rating Date: September 01 07
 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: July 11, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 11, 2003 to July 11, 2008

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

Name: Lauren Smitherman Phone: 512-239-5223

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 07/06/2004 (279555)
- 2 12/21/2004 (344881)

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

Date: 07/06/2004 (279555)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)

Rqmt Prov: PERMIT MSGP, Part III, Section A(5)(d)

Description: Failure to conduct periodic and quarterly visual inspections.

Self Report? NO

Classification: Moderate

Rqmt Prov: PERMIT MSGP, Part III, Section D(1,2)(c)

Description: Failure to conduct hazardous metal monitoring.

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
FORT WORTH CRUSHED STONE,
L.C.
RN102737780**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-1081-WQ-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 Fort Worth Crushed Stone, L.C. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent operates a mining and stone crushing operation located at 7001 East Highway 377 in Cresson, Hood County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 June 24, 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 Five Thousand Six Hundred Forty-Three Dollars (\$5,643) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The Respondent has paid Four Thousand Five Hundred Fifteen Dollars (\$4,515) of the administrative penalty and One Thousand One Hundred Twenty-Eight Dollars (\$1,128) 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 recognizes that:
 - a. On April 28, 2008, the Respondent completed the annual comprehensive site compliance evaluation;
 - b. On May 5, 2008, the Respondent identified and described vehicle tracking of sediment as a potential pollutant source in the Storm Water Pollution Prevention Plan ("SWP3") and placed crushed recycled asphalt product in traffic areas as a control to eliminate or minimize vehicle tracking at the Facility; and
 - c. On May 15, 2008, the Respondent completed the periodic inspection and the quarterly visual monitoring of storm water discharges.
 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 operator of the Facility, the Respondent is alleged to have:

1. Failed to perform periodic inspections to determine the effectiveness of the control measures outlined in the SWP3 and to perform quarterly visual monitoring of storm water discharges since obtaining authorization to discharge on November 13, 2006, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05L416, Part III, Section A(5)(g), Section A(5)(h), and 40 CODE OF FEDERAL

REGULATIONS ("CFR") § 122.26(c), as documented during an investigation conducted on April 8, 2008.

2. Failed to perform an annual comprehensive site compliance evaluation since obtaining authorization to discharge on November 13, 2006, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TPDES General Permit No. TXR05L416, Part III, Section A(7), and 40 CFR § 122.26(c), as documented during an investigation conducted on April 8, 2008.
3. Failed to identify and describe vehicle tracking of sediment as a potential pollutant source within the SWP3, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TPDES General Permit No. TXR05L416, Part III, Section A(1)(a)(1), and 40 CFR § 122.26(c), as documented during an investigation conducted on April 8, 2008.

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: Fort Worth Crushed Stone, L.C., Docket No. 2008-1081-WQ-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 Facility operations referenced in this Agreed Order.
3. 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.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to 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

John Sallee

For the Executive Director

Date 1/23/2009

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.

Fred H. Brown

Signature

11-11-08

Date

Fred H. Brown

Name (Printed or typed)
Authorized Representative of
Fort Worth Crushed Stone, L.C.

Pres.

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.

