

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0447-AIR-E **TCEQ ID:** RN104744016 **CASE NO.:** 37391

RESPONDENT NAME: Millicrete Ready-Mix, LP

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: Millicrete Ready-Mix Plant 1, 3312 United States Highway 59 South, Cleveland, Liberty County</p> <p>TYPE OF OPERATION: Concrete batch plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on January 13, 2009, alleging that emissions from the site were impacting the complainant's residence. 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 August 24, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Gary Millican, Owner/Member, Millicrete Ready-Mix, LP, 3312 United States Highway 59 South, Cleveland, Texas 77327 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: January 13, 2009</p> <p>Date of Investigation Relating to this Case: January 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 6, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failure to maintain records of production rates for each hour of operation for the most recent rolling 24-month period as required by the permit [30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(8), Standard Permit No. 76546, Special Condition No. 1(F), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to connect the suction shroud to the fabric or cartridge filter system during operation, resulting in the failure to meet the performance standard of no visible emissions exceeding 30 seconds in a six-minute period [30 TEX. ADMIN. CODE §§ 116.115(c) and 116.615(9), Standard Permit No. 76546, Special Condition No. 3(B)(i) and (iii), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to minimize dust emissions from all plant roads, traffic areas and stockpiles as required by the permit [30 TEX. ADMIN. CODE § 116.115(c), Standard Permit No. 76546, Special Condition No. 3(E) and (F), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to store stockpiles which are not in a bunker at least 25 feet from the property line or within a three-walled bunker which extends at least two feet above the top of the stockpile [30 TEX. ADMIN. CODE § 116.115(c), Standard</p>	<p>Total Assessed: \$3,588</p> <p>Total Deferred: \$717 <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: \$2,871</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On January 26, 2009, began keeping production rate records;</p> <p>b. On February 1, 2009, moved all stockpiles to a distance greater than 25 feet from the property line;</p> <p>c. On February 17, 2009, installed sprinklers on stockpiles to minimize dust emissions; and</p> <p>d. On March 3, 2009, installed cartridge filters and concreted the entrance to the Plant to reduce emissions from dust.</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, implement measures designed to ensure that the shroud is connected to the filter system at all times during operation; and</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>

Permit No. 76546, Special Condition No. 6(D)(iii) and (E)(ii), and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): LHA007G



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-Mar-2009	Screening	31-Mar-2009	EPA Due	
	PCW	3-Apr-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Millicrete Ready-Mix, LP		
Reg. Ent. Ref. No.	RN104744016		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37391	No. of Violations	4
Docket No.	2009-0447-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		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 Enhancement **Subtotals 2, 3, & 7** Notes Culpability Enhancement **Subtotal 4** Notes Good Faith Effort to Comply Total Adjustments **Subtotal 5** Economic Benefit Enhancement* **Subtotal 6** Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ AmountSUM 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 31-Mar-2009

Docket No. 2009-0447-AIR-E

PCW

Respondent Millicrete Ready-Mix, LP

Policy Revision 2 (September 2002)

Case ID No. 37391

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104744016

Media [Statute] Air

Enf. Coordinator Nadia Hameed

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	2	4%
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) 4%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to two non-similar Notices of Violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date	31-Mar-2009	Docket No.	2009-0447-AIR-E	PCW
Respondent	Millicrete Ready-Mix, LP	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	37391	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN104744016			
Media [Statute]	Air			
Enf. Coordinator	Nadia Hameed			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 116.615(8), Standard Permit No. 76546, Special Condition No. 1(F) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain records of production rates for each hour of operation for the most recent rolling 24-month period as required by the permit.			

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	x	<input type="text"/>	<input type="text"/>	

Matrix Notes

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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	x	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

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 Millicrete Ready-Mix, LP
Case ID No. 37391
Reg. Ent. Reference No. RN104744016
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)				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]				0.00	\$0	\$0	\$0
Other (as needed)	\$500	21-Jan-2007	26-Jan-2009	2.93	\$73	\$500	\$573

Notes for AVOIDED costs

Cost of implementing a system for keeping production records. Records were required for a two year period, therefore the date required is based on two years prior to the date of the investigation. The final date is based on the date the corrective actions were completed.

Approx. Cost of Compliance

\$500

TOTAL

\$573

Screening Date 31-Mar-2009	Docket No. 2009-0447-AIR-E	PCW														
Respondent Millicrete Ready-Mix, LP		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 37391		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN104744016																
Media [Statute] Air																
Enf. Coordinator Nadia Hameed																
Violation Number <input type="text" value="2"/>																
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c), 116.615(9), Standard Permit No. 76546, Special Condition No. 3(B)(i) and (iii) and Tex. Health & Safety Code § 382.085(b)															
Violation Description	Failed to connect the suction shroud to the fabric or cartridge filter system during operation, resulting in the failure to meet the performance standard of no visible emissions exceeding 30 seconds in a six-minute period.															
	Base Penalty	<input type="text" value="\$10,000"/>														
>> Environmental, Property and Human Health Matrix																
	Harm															
	Major Moderate Minor															
OR	Release															
	Actual	<input type="text" value="x"/>														
	Potential	<input type="text"/>														
	Percent	<input type="text" value="10%"/>														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/>	<input type="text" value="0%"/>														
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.															
	Adjustment	<input type="text" value="\$9,000"/>														
		<input type="text" value="\$1,000"/>														
Violation Events																
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="69"/> Number of violation days														
	<table border="1" style="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 checked="" 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 type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input checked="" type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
<small>mark only one with an x</small>																
	<input type="text" value="One quarterly event is recommended from January 21, 2009 date of investigation to screening on March 31, 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="text"/> (mark with x)															
Notes	<input type="text" value="The Respondent does not meet good faith criteria."/>															
	Violation Subtotal	<input type="text" value="\$1,000"/>														
Economic Benefit (EB) for this violation																
	Estimated EB Amount <input type="text" value="\$42"/>	Statutory Limit Test														
		<input type="text" value="\$1,238"/>														
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,238"/>															

Economic Benefit Worksheet

Respondent Millicrete Ready-Mix, LP
Case ID No. 37391
Reg. Ent. Reference No. RN104744016
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,000	21-Jan-2009	3-Mar-2009	0.11	\$0	\$7	\$8
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)	\$1,000	21-Jan-2009	27-Sep-2009	0.68	\$34	n/a	\$34

Notes for DELAYED costs
 Cost of installation of cartridge filters and shroud. The date required is based on the date the violation was documented. The final date is based on the date the cartridge filters were installed (March 3, 2009) and the date the remaining corrective actions are expected 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 \$2,000

TOTAL \$42

Screening Date 31-Mar-2009	Docket No. 2009-0447-AIR-E	PCW		
Respondent Millicrete Ready-Mix, LP		Policy Revision 2 (September 2002)		
Case ID No. 37391		PCW Revision October 30, 2008		
Reg. Ent. Reference No. RN104744016				
Media [Statute] Air				
Enf. Coordinator Nadia Hameed				
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 116.115(c), Standard Permit No. 76546, Special Condition No. 3(E) and (F) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to minimize dust emissions from all plant roads, traffic areas and stockpiles as required by the permit.			
	Base Penalty	\$10,000		
>> Environmental, Property and Human Health Matrix				
	Release	Harm		
		Major Moderate Minor		
OR	Actual	Potential		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
		Percent <input type="text" value="10%"/>		
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do 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	<input type="text" value="1"/>	<input type="text" value="41"/>	Number of violation days
	<i>mark only one with an x</i>	daily	<input type="checkbox"/>	
		weekly	<input type="checkbox"/>	
		monthly	<input type="checkbox"/>	
		quarterly	<input checked="" type="checkbox"/>	
		semiannual	<input type="checkbox"/>	
		annual	<input type="checkbox"/>	
		single event	<input type="checkbox"/>	
				Violation Base Penalty <input type="text" value="\$1,000"/>
	One quarterly event is recommended from the January 21, 2009 date of investigation to March 3, 2009 when the corrective actions were completed.			
Good Faith Efforts to Comply				
	25.0% Reduction	<input type="text" value="\$250"/>		
		Before NOV	NOV to EDPRP/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 completed the corrective actions on March 3, 2009, prior to the March 6, 2009 NOE.			
	Violation Subtotal	<input type="text" value="\$750"/>		
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$87"/>	Statutory Limit Test	
			Violation Final Penalty Total	<input type="text" value="\$940"/>
			This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$940"/>	

Economic Benefit Worksheet

Respondent Millicrete Ready-Mix, LP
Case ID No. 37391
Reg. Ent. Reference No. RN104744016
Media Air
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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$11,000	21-Jan-2009	3-Mar-2009	0.11	\$4	\$82	\$86
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)	\$150	21-Jan-2009	17-Feb-2009	0.07	\$1	n/a	\$1

Notes for DELAYED costs
 Cost of installing sprinklers on stockpiles and concreting the entrance to the Plant. The date required is based on the date the violation was documented. The final date is based on the date the corrective actions were completed (Plant entrance was concreting on March 3, 2009 and sprinklers were installed on February 17, 2009).

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

\$11,150

TOTAL

\$87

Screening Date 31-Mar-2009	Docket No. 2009-0447-AIR-E	PCW			
Respondent Millicrete Ready-Mix, LP	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 37391	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN104744016					
Media [Statute] Air					
Enf. Coordinator Nadia Hameed					
Violation Number <input type="text" value="4"/>					
Rule Cite(s)	30 Tex. Admin. Code § 116.115(c), Standard Permit No. 76546, Special Condition No. 6(D)(iii) and (E)(ii) and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to store stockpiles which are not in a bunker at least 25 feet from the property line or within a three-walled bunker which extends at least two feet above the top of the stockpile.				
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"/>	<input type="text"/>	x		
Percent		<input type="text" value="5%"/>			
>> 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 had the potential to be exposed to insignificant amounts of pollutants which would not likely exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment		<input type="text" value="\$9,500"/>			
		<input type="text" value="\$500"/>			
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="11"/>			
<small>mark only one with an x</small>	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	x			
Violation Base Penalty		<input type="text" value="\$500"/>			
One single event is recommended as documented during the January 21, 2009 investigation.					
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction		<input type="text" value="\$125"/>	
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	x	<input type="text"/>			
N/A	<input type="text"/>	<small>(mark with x)</small>			
Notes	The Respondent completed the corrective actions on February 1, 2009, prior to the March 6, 2009 NOE.				
Violation Subtotal		<input type="text" value="\$375"/>			
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$1"/>		Violation Final Penalty Total	
				<input type="text" value="\$470"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$470"/>	

Economic Benefit Worksheet

Respondent Millicrete Ready-Mix, LP
Case ID No. 37391
Reg. Ent. Reference No. RN104744016
Media Air
Violation No. 4

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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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)	\$500	21-Jan-2009	1-Feb-2009	0.03	\$1	n/a	\$1

Notes for DELAYED costs

Cost of moving stockpiles to a distance of greater than 25 feet. The date required is based on the date the violation was documented. The final date is based on the date the corrective actions were completed.

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

\$500

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN602902918 Millicrete Ready-Mix, LP Classification: Rating: 3.00
AVERAGE

Regulated Entity: RN104744016 MILLCRETE READY MIX PLANT 1 Classification: Site Rating: 3.00
AVERAGE

ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 76546
AIR NEW SOURCE PERMITS ACCOUNT NUMBER LHA007G
AIR NEW SOURCE PERMITS AFS NUM 4829100092
WASTE WATER GENERAL PERMIT PERMIT TXG110831

Location: 3312 US HIGHWAY 59 S, CLEVELAND, TX, 77327

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 30, 2009

Agency Decision Requiring Compliance Enforcement

Compliance Period: March 30, 2004 to March 30, 2009

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

Name: Nadia Hameed Phone: 713-767-3629

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? Yes
3. If Yes, who is the current owner? N/A Millicrete Ready Mix, LP
4. If Yes, who was/were the prior owner(s)? N/A
Millicrete Ready Mix, LP
5. When did the change(s) in ownership occur? N/A
05/29/2008
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.)
N/A

1	06/18/2008	(682270)
2	11/10/2008	(735116)
3	11/10/2008	(735117)
4	11/10/2008	(735118)
5	11/10/2008	(735119)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/21/2005 (432600)

N/A

Self NO Classification: Moderate

Citation 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description Failed to start construction after the permit was obtained.

Date: 04/29/2008 (654140)

Self NO Classification: Moderate

Citation 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description Failure to obtain either a TXG110000 General Permit for Concrete or a Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector Industrial General Permit for storm water discharges.

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
MILLICRETE READY-MIX, LP
RN104744016

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0447-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 Millicrete Ready-Mix, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a concrete batch plant at 3312 United States Highway 59 South in Cleveland, Liberty 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 March 11, 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 Three Thousand Five Hundred Eighty-Eight Dollars (\$3,588) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Seventy-One Dollars (\$2,871) of the administrative penalty and Seven Hundred Seventeen Dollars (\$717) 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 the Respondent has implemented the following corrective measures at the Plant:
 - a. On January 26, 2009, began keeping production rate records;
 - b. On February 1, 2009, moved all stockpiles to a distance greater than 25 feet from the property line;
 - c. On February 17, 2009, installed sprinklers on stockpiles to minimize dust emissions; and
 - d. On March 3, 2009, installed cartridge filters and concreted the entrance to the Plant to reduce emissions from dust.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to maintain records of production rates for each hour of operation for the most recent rolling 24-month period as required by the permit, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 116.615(8), Standard Permit No. 76546, Special Condition No. 1(F) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 21, 2009.

2. Failed to connect the suction shroud to the fabric or cartridge filter system during operation, resulting in the failure to meet the performance standard of no visible emissions exceeding 30 seconds in a six-minute period, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 116.615(9), Standard Permit No. 76546, Special Condition No. 3(B)(i) and (iii) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 21, 2009.
3. Failed to minimize dust emissions from all plant roads, traffic areas and stockpiles as required by the permit, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Standard Permit No. 76546, Special Condition No. 3(E) and (F) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 21, 2009.
4. Failed to store stockpiles which are not in a bunker at least 25 feet from the property line or within a three-walled bunker which extends at least two feet above the top of the stockpile, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Standard Permit No. 76546, Special Condition No. 6(D)(iii) and (E)(ii) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 21, 2009.

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: Millicrete Ready-Mix, LP, Docket No. 2009-0447-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 implement measures designed to ensure that the shroud is connected to the filter system at all times during operation; and
 - 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 language0

"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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

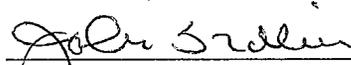
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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 Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

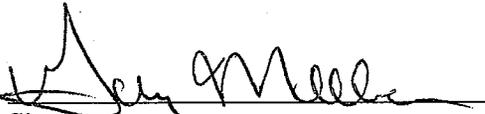
8/6/2009
Date

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.



Signature

08.17.09
Date

Gary Millican

Name (Printed or typed)
Authorized Representative of
Millicrete Ready-Mix, LP

member

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.