

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0662-AIR-E **TCEQ ID:** RN102166758 **CASE NO.:** 39578
RESPONDENT NAME: Azteca Milling, L.P.

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: Dawn Corn Milling Facility, 4819 Farm-to-Market Road 809, near Dawn, Deaf Smith County</p> <p>TYPE OF OPERATION: Corn milling plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Todd Huddleson, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2541; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Michael Foss, Production Manager, Azteca Milling, L.P., 4819 Farm-to-Market Road 809, Dawn, Texas 79025 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: February 12, 2010</p> <p>Date of NOV/NOE Relating to this Case: April 6, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to maintain emissions below the allowable emission limit of 5.17 pounds per hour for particulate matter with an aerodynamic diameter of 10 microns or less ("PM10"). Specifically, on October 12, 2009, a blockage of product flow resulted due to excessive moisture in the product plugging the airlock cyclone, Emissions Point No. 3, resulting in the release of 8.5 pounds of unauthorized PM10 over a four-minute period [New Source Review Permit No. 37806, Special Condition 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,775</p> <p>Total Deferred: \$755 <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: \$3,020</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input 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 October 12, 2009, prompt action was taken by shutting down production and initiating an emergency work request to clear the plugging in the cyclone; and</p> <p>b. By January 12, 2010, provided additional training on the standard procedures for clearing and restarting the cyclone.</p>

Additional ID No(s): DD0067Q



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Apr-2010	Screening	16-Apr-2010	EPA Due	1-Jan-2011
	PCW	22-Apr-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Azteca Milling, L.P.
Reg. Ent. Ref. No.	RN102166758
Facility/Site Region	1-Amarillo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39578	No. of Violations	1
Docket No.	2010-0662-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Todd Huddleson
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 76.0% Enhancement *Subtotals 2, 3, & 7* **\$1,900**

Notes: The penalty was enhanced by three 1660-style agreed orders, two NOV's for same or similar violations, and three NOV's for dissimilar violations.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$625**

Economic Benefit 0.0% Enhancement* *Subtotal 6* **\$0**

Total EB Amounts \$6
 Approx. Cost of Compliance \$500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$3,775**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,775**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$3,775**

DEFERRAL 20.0% Reduction *Adjustment* **-\$755**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$3,020**

Screening Date 16-Apr-2010

Docket No. 2010-0662-AIR-E

PCW

Respondent Azteca Milling, L.P.

Policy Revision 2 (September 2002)

Case ID No. 39578

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102166758

Media [Statute] Air

Enf. Coordinator Todd Huddleson

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)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	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) 76%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by three 1660-style agreed orders, two NOVs for same or similar violations, and three NOVs for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 76%

Screening Date 16-Apr-2010

Docket No. 2010-0662-AIR-E

PCW

Respondent Azteca Milling, L.P.

Policy Revision 2 (September 2002)

Case ID No. 39578

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102166758

Media [Statute] Air

Enf. Coordinator Todd Huddleson

Violation Number 1

Rule Cite(s) New Source Review Permit No. 37806, Special Condition 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain emissions below the allowable emission limit of 5.17 pounds per hour for particulate matter with an aerodynamic diameter of 10 microns or less ("PM10"), as documented during an investigation conducted on February 12, 2010. Specifically, on October 12, 2009, a blockage of product flow resulted due to excessive moisture in the product plugging the airlock cyclone Emissions Point No. 3 resulting in the release of 8.5 pounds of unauthorized PM10 over a four-minute period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent completed corrective actions by January 12, 2010, and the NOE is dated April 6, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$3,775

This violation Final Assessed Penalty (adjusted for limits) \$3,775

Economic Benefit Worksheet

Respondent Azteca Milling, L.P.
Case ID No. 39578
Reg. Ent. Reference No. RN102166758
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	\$500	12-Oct-2009	12-Jan-2010	0.25	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to retrain personnel in clearing and restarting the cyclone procedures. The Date Required is the date of the exceedance, and the Final Date is the date the Respondent completed the training.

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

\$500

TOTAL

\$6

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600127914 Azteca Milling, L. P.	Classification: AVERAGE	Rating: 6.57
Regulated Entity:	RN102166758 DAWN CORN MILLING FACILITY	Classification: AVERAGE	Site Rating: 15.12
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	37806
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DD0067Q
	AIR NEW SOURCE PERMITS	AFS NUM	4811700023
	WASTEWATER	PERMIT	WQ0004052000
	AIR OPERATING PERMITS	PERMIT	2806
	AIR OPERATING PERMITS	ACCOUNT NUMBER	DD0067Q
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	DD0067Q
Location:	4819 FM 809, DAWN, TX, 79025		
TCEQ Region:	REGION 01 - AMARILLO		
Date Compliance History Prepared:	April 20, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 20, 2005 to April 20, 2010		

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

Name: Todd Huddleson Phone: 239 - 2541

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? 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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 08/29/2005 ADMINORDER 2004-1642-AIR-E
- Classification: Major
- Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter B 122.130(b)(1)
5C THC Chapter 382, SubChapter A 382.054
- Description: Failed to submit an abbreviated Title V Federal Operating Permit application and continued operating.
- Effective Date: 12/30/2005 ADMINORDER 2005-1080-IWD-E
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Permit Special Provisions PERMIT
- Description: Failure by the facility to prevent an unauthorized discharge from the permitted irrigation area.
- Effective Date: 02/18/2008 ADMINORDER 2007-1204-AIR-E
- Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)
5C THC Chapter 382, SubChapter D 382.085(b)
- Rqmt Prov: General Terms and Conditions OP
- Description: Failed to submit semi-annual deviation reports for Federal Operating Permit No. O-2806. As documented during an investigation conducted on June 14, 2007, semi-annual deviation reports for the period December 27, 2005 through June 26, 2006 and June 27, 2006 through December 26, 2006 were due by July 26, 2006 and January 26, 2007, respectively, but were not received until July 13, 2007.
- Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to certify compliance with the terms and conditions of Federal Operating Permit No. O-2806 for at least each 12-month period following the initial issuance of the permit. As documented during an investigation conducted on June 14, 2007, the annual compliance certification for the period December 27, 2005 to December 26, 2006 was due by January 26, 2007, but was not received until July 13, 2007.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/18/2005	(381279)
2	01/27/2006	(452268)
3	01/31/2006	(453498)
4	06/03/2006	(465770)
5	01/18/2007	(531223)
6	06/24/2007	(564046)
7	07/03/2007	(565810)
8	03/06/2008	(615963)
9	09/05/2008	(701762)
10	09/09/2008	(701850)
11	01/26/2009	(723792)
12	03/03/2009	(737086)
13	03/10/2009	(721294)
14	04/02/2009	(740905)
15	04/06/2010	(789537)

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

Date:	12/12/2005	(435641)	CN600127914
Self Report?	NO		Classification: Major
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	Failure to prevent an unauthorized discharge from the facility.		
Date:	01/30/2006	(452268)	CN600127914
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) IV., Conditions of the Permit, page 2. PERMIT		
Description:	Failure to meet permit effluent limitations for pH.		
Self Report?	NO		Classification: Moderate
Citation:	V., Special Provisions, D., page 3 PERMIT		
Description:	Failure to post the permit required (do not drink the water) signs at the wastewater effluent irrigation site.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter A 290.20 V., Special Provisions, P., page 5 PERMIT		
Description:	Failure to maintain the proper buffer zones for all water wells located on the effluent land application site.		
Date:	06/18/2008	(682477)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.4		
Description:	Failed to prevent a nuisance odor condition which adversely interfered with the normal use of the complainant's property in violation of the provisions of 30 TAC §101.4.		
Date:	01/26/2009	(723792)	CN600127914
Self Report?	NO		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d)		

2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
III., General Description and Location PERMIT
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent an unauthorized discharge.

Date: 03/10/2009 (721294) CN600127914

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

special condition 1 PERMIT

Description: Failed to comply with the hourly allowable emission rate for PM/PM10 for cyclones EPN 5 and EPN 6.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)

Description: Failed to properly operate the air pollution emission capture and abatement equipment.

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
AZTECA MILLING, L.P.
RN102166758

§
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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0662-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 Azteca Milling, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a corn milling plant at 4819 Farm-to-Market Road 809 near Dawn, Deaf Smith 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 April 11, 2010.
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 Seven Hundred Seventy-Five Dollars (\$3,775) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Twenty Dollars (\$3,020) of the

administrative penalty and Seven Hundred Fifty-Five Dollars (\$755) 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 October 12, 2009, prompt action was taken by shutting down production and initiating an emergency work request to clear the plugging in the cyclone; and
 - b. By January 12, 2010, provided additional training on the standard procedures for clearing and restarting the cyclone.
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 failed to maintain emissions below the allowable emission limit of 5.17 pounds per hour for particulate matter with an aerodynamic diameter of 10 microns or less ("PM10"), in violation of New Source Review Permit No. 37806, Special Condition 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 12, 2010. Specifically, on October 12, 2009, a blockage of product flow resulted due to excessive moisture in the product plugging the airlock cyclone, Emissions Point No. 3, resulting in the release of 8.5 pounds of unauthorized PM10 over a four-minute period.

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: Azteca Milling, L.P., Docket No. 2010-0662-AIR-E" to:

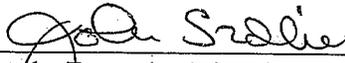
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. 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 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.
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



For the Executive Director

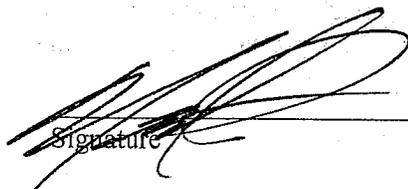
8/13/2010
Date

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

7-7-2010
Date

Michael Foss

Name (Printed or typed)
Authorized Representative of
Azteca Milling, L.P.

Production MGR
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.