

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0544-AIR-E **TCEQ ID:** RN105378632 **CASE NO.:** 37443
RESPONDENT NAME: Genesis Quality Aggregates, Ltd.

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: Genesis Quality Aggregates Eagle Pass Sand Pit, 8035 U.S. Highway 227 North, Eagle Pass, Maverick County</p> <p>TYPE OF OPERATION: Aggregate processing and sales site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: Three complaints were received on February 6, 2009, alleging excessive amounts of dust and noise being generated at the site. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: Complaints were received, but the complainants have 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 September 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Hugo Ruiz, Superintendent of Operations and President, Genesis Quality Aggregates, Ltd., 523 North Ceylon Street, Eagle Pass, Texas 78852 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: February 6, 2009</p> <p>Date of Investigation Relating to this Case: February 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 25, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failure to obtain permit authorization for a source of air emissions or satisfy the conditions of a Permit By Rule prior to the commencement of operations of a sand and gravel processing plant [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p> <p>2) Failure to submit an excess opacity event notification within 24 hours of the discovery of the event. Specifically, opacity measurements following Environmental Protection Agency Method 9 guidelines averaged 39.16% over a six minute period on February 9, 2009 [30 TEX. ADMIN. CODE § 101.201(e) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,000</p> <p>Total Deferred: \$600 <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: \$2,400</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit an administratively complete permit application; and</p> <p>ii. Implement improvements to operational policies and procedures in order to issue appropriate notification of excess opacity events within 24 hours of the discovery.</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provisions a.i. and a.ii.; and</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance.</p>

Additional ID No(s): 83522

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ	DATES	Assigned	31-Mar-2009	Screening	2-Apr-2009	EPA Due	
		PCW	11-May-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Genesis Quality Aggregates, Ltd.
Reg. Ent. Ref. No.	RN105378632
Facility/Site Region	16-Laredo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37443	No. of Violations	2
Docket No.	2009-0544-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		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 \$3,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
Compliance History	0.0% Enhancement Subtotals 2, 3, & 7 \$0
Notes	No penalty enhancement due to average performer classification.
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 \$0
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
<small>Total EB Amounts</small> \$28	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small> \$750	
SUM OF SUBTOTALS 1-7	Final Subtotal \$3,000
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	
	Final Penalty Amount \$3,000
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$3,000
DEFERRAL	20.0% Reduction Adjustment -\$600
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	Deferral offered for expedited settlement.
PAYABLE PENALTY	\$2,400

Screening Date 2-Apr-2009

Docket No. 2009-0544-AIR-E

PCW

Respondent: Genesis Quality Aggregates, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 37443

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105378632

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments 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) 0%

>> **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

No penalty enhancement due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date: 2-Apr-2009 **Docket No.:** 2009-0544-AIR-E **PCW**
Respondent: Genesis Quality Aggregates, Ltd. *Policy Revision 2 (September 2002)*
Case ID No.: 37443 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN105378632
Media [Statute]: Air
Enf. Coordinator: James Nolan

Violation Number: 1
Rule Cite(s): 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)
Violation Description: Failed to obtain permit authorization for a source of air emissions or satisfy the conditions of a Permit By Rule prior to the commencement of operations of a sand and gravel processing plant.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes: 100% of the rule requirement was not met.
Adjustment: \$9,000

Violation Events

Number of Violation Events: 2 **Number of violation days:** 61
mark only one with an x
 daily:
 weekly:
 monthly:
 quarterly:
 semiannual:
 annual:
 single event:
Violation Base Penalty: \$2,000

Two monthly events are recommended based on the date of the investigation (2/9/2009) through the screening date (4/2/2009).

Good Faith Efforts to Comply 0.0% Reduction \$0

	Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal: \$2,000

Economic Benefit (EB) for this violation: **Statutory Limit Test**
Estimated EB Amount: \$19 **Violation Final Penalty Total:** \$2,000
This violation Final Assessed Penalty (adjusted for limits): \$2,000

Economic Benefit Worksheet

Respondent: Genesis Quality Aggregates, Ltd.
Case ID No.: 37443
Reg. Ent. Reference No.: RN105378632
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Item Description: 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	\$500	9-Feb-2009	9-Nov-2009	0.75	\$19	n/a	\$19
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit. The date required is the date of investigation and the final date is the estimated 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

\$500

TOTAL

\$19

Screening Date: 2-Apr-2009	Docket No.: 2009-0544-AIR-E	PCW			
Respondent: Genesis Quality Aggregates, Ltd.	<small>Policy Revision 2 (September 2002)</small>				
Case ID No.: 37443	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No.: RN105378632					
Media [Statute]: Air					
Enf. Coordinator: James Nolan					
Violation Number: 2					
Rule Cite(s):	30 Tex. Admin. Code § 101.201(e) and Tex. Health & Safety Code § 382.085(b)				
Violation Description:	Failed to submit an excess opacity event notification within 24 hours of the discovery of the event. Specifically, opacity measurements following EPA Method 9 guidelines averaged 39.16% over a six minute period on February 9, 2009.				
Base Penalty:		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent: <input type="text" value="0%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent: <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment:				\$9,000	
				\$1,000	
Violation Events					
Number of Violation Events: <input type="text" value="1"/>		Number of violation days: <input type="text" value="52"/>			
<small>mark only one with an x</small>	daily	<input type="checkbox"/>			
	weekly	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	<input type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input checked="" type="checkbox"/>			
				Violation Base Penalty: <input type="text" value="\$1,000"/>	
One single event is recommended.					
Good Faith Efforts to Comply					
		<input type="text" value="0.0%"/>	Reduction: <input type="text" value="\$0"/>		
		Before NOV	NOV to EOPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>				
Ordinary	<input type="checkbox"/>				
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>			
Notes:	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal:				\$1,000	
Economic Benefit (EB) for this violation					
Estimated EB Amount:		<input type="text" value="\$9"/>	Statutory Limit Test		
			Violation Final Penalty Total:	\$1,000	
This violation Final Assessed Penalty (adjusted for limits):				\$1,000	

Economic Benefit Worksheet

Respondent: Genesis Quality Aggregates, Ltd.
Case ID No.: 37443
Reg. Ent. Reference No.: RN105378632
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

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	\$250	9-Feb-2009	9-Nov-2009	0.75	\$9	n/a	\$9
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to implement policies and procedures to ensure proper notification of opacity events. Date required is the date of investigation and the final date is the estimated 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	\$250	TOTAL	\$9
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603271230 Genesis Quality Aggregates, Ltd. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105378632 GENESIS QUALITY AGGREGATES Classification: AVERAGE BY Site Rating: 3.01
EAGLE PASS SAND PIT DEFAULT
ID Number(s): STORMWATER PERMIT TXR05Y303
AIR NEW SOURCE PERMITS REGISTRATION 83522
Location: 8035 US HWY 227 N, EAGLE PASS, TX 78852
TCEQ Region: REGION 16 - LAREDO
Date Compliance History Prepared: April 02, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 02, 2004 to April 02, 2009

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

Name: James Nolan Phone: (512) 239-6634

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
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
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GENESIS QUALITY AGGREGATES,
LTD.
RN105378632

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0544-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 Genesis Quality Aggregates, Ltd. ("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 an aggregate processing and sales site at 8035 U.S. Highway 227 North in Eagle Pass, Maverick County, Texas (the "Site").
2. The Site 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 30, 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 Dollars (\$3,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent

has paid Two Thousand Four Hundred Dollars (\$2,400) of the administrative penalty and Six Hundred Dollars (\$600) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to obtain permit authorization for a source of air emissions or satisfy the conditions of a Permit By Rule prior to the commencement of operations of a sand and gravel processing plant, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on February 9, 2009.
2. Failed to submit an excess opacity event notification within 24 hours of the discovery of the event, in violation of 30 TEX. ADMIN. CODE § 101.201(e) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 9, 2009. Specifically, opacity measurements following Environmental Protection Agency Method 9 guidelines averaged 39.16% over a six minute period on February 9, 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: Genesis Quality Aggregates, Ltd., Docket No. 2009-0544-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit an administratively complete permit application, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Implement improvements to operational policies and procedures in order to issue appropriate notification of excess opacity events within 24 hours of the discovery.
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.d. to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.; and
- d. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

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

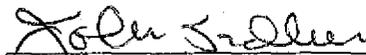
by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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

Date 1/10/2010

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:

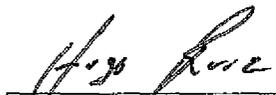
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement 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

Date 7/13/09



Name (Printed or typed)
Authorized Representative of
Genesis Quality Aggregates, Ltd.

Title Superintendent of Operations

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.