

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1220-IWD-E **TCEQ ID:** RN101874030 **CASE NO.:** 38062  
**RESPONDENT NAME:** Coston & Son, Inc.

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Coston &amp; Son Ready Mix Concrete, 155 East Oak Avenue, Paris, Lamar County</p> <p><b>TYPE OF OPERATION:</b> Ready mix concrete plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 28, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Ms. Trava Coston Ables, President, Coston &amp; Son, Inc., 155 East Oak Avenue, Paris, Texas 75460  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 8, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 23, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with the permit effluent limits for pH and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ General Permit No. TXG110508, Part III, Section A].</p>	<p><b>Total Assessed:</b> \$10,440</p> <p><b>Total Deferred:</b> \$2,088  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$8,352</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TCBQ General Permit No. TXG110508, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): TXG110508



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	27-Jul-2009	Screening	30-Jul-2009	EPA Due	
	PCW	3-Aug-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Coston & Son, Inc.
Reg. Ent. Ref. No.	RN101874030
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38062	No. of Violations	2
Docket No.	2009-1220-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$7,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 52.0% Enhancement **Subtotals 2, 3, & 7** \$3,640

Notes: An enhancement is recommended because the Respondent has ten self-reported effluent violations and one NOV for non-similar 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** \$0

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

Total EB Amounts \$108  
Approx. Cost of Compliance \$1,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$10,640

**OTHER FACTORS AS JUSTICE MAY REQUIRE** -1.9% Reduction **Adjustment** -\$200

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction in penalty so that monthly self-reported effluent violations do not overly impact the penalty amount.

**Final Penalty Amount** \$10,440

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$10,440

**DEFERRAL** 20.0% Reduction **Adjustment** -\$2,088

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$8,352

Screening Date 30-Jul-2009

Docket No. 2009-1220-IWD-E

PCW

Respondent Coston & Son, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38062

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874030

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

**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)	10	50%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 52%

>> 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

An enhancement is recommended because the Respondent has ten self reported effluent violations and one NOV for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 52%

<b>Screening Date</b> 30-Jul-2009	<b>Docket No.</b> 2009-1220-IWD-E	<b>PCW</b>		
<b>Respondent</b> Coston & Son, Inc.		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 38062		<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101874030				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Harvey Wilson				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TCEQ General Permit No. TXG110508, Part III, Section A.			
<b>Violation Description</b>	Failed to comply with the permit effluent limits as documented during a record review conducted on June 8, 2009, and depicted in the attached table.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="10%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	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.			
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>		
<b>Violation Events</b>				
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="123"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		<b>Violation Base Penalty</b>	<input type="text" value="\$2,000"/>	
	Two quarterly events are recommended for the quarters containing the months of August, October, November, and December 2008.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>	<b>Reduction</b>	<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	<input checked="" type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
	<b>Violation Subtotal</b>	<input type="text" value="\$2,000"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	Estimated EB Amount	<input type="text" value="\$108"/>	Violation Final Penalty Total	<input type="text" value="\$2,983"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,983"/>		

## Economic Benefit Worksheet

**Respondent** Coston & Son, Inc.  
**Case ID No.** 38062  
**Reg. Ent. Reference No.** RN101874030  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

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	1-Feb-2008	31-Mar-2010	2.16	\$54	n/a	\$54
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	1-Feb-2008	31-Mar-2010	2.16	\$54	n/a	\$54

**Notes for DELAYED costs**  
 The estimated cost of additional training and supervision required to develop and implement improved operating procedures to include washing of trucks and disposal of left-over cement. Date Required is the date the violation was documented. Final Date is the estimated date of compliance.

**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	\$1,000	<b>TOTAL</b>	\$108
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<b>Screening Date</b> 30-Jul-2009	<b>Docket No.</b> 2009-1220-IWD-E	<b>PCW</b>	
<b>Respondent</b> Coston & Son, Inc.	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 38062	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101874030			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Harvey Wilson			
<b>Violation Number</b> 2			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TCEQ General Permit No. TXG110508, Part III, Section A.		
<b>Violation Description</b>	Failed to comply with the permit effluent limits as documented during a record review conducted on June 8, 2009, and depicted in the attached table.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Harm</b>		
	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>			25%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major	Moderate	Minor	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Percent</b>			0%
<b>Matrix Notes</b>	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.		
<b>Adjustment</b>		\$7,500	
		\$2,500	
<b>Violation Events</b>			
<b>Number of Violation Events</b>		2	58
		<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	weekly	<input type="checkbox"/>	
	monthly	<input checked="" type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
<b>Violation Base Penalty</b>			\$5,000
Two monthly events are recommended for the months of February and June of 2008.			
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>		\$5,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		\$0	<b>Violation Final Penalty Total</b>
		\$7,457	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
		\$7,457	

## Economic Benefit Worksheet

**Respondent** Coston & Son, Inc.  
**Case ID No.** 38062  
**Reg. Ent. Reference No.** RN101874030  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit on Violation #1.

**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 \$0

**TOTAL** \$0

Coston & Son, Inc.  
Docket No. 2009-1220-IWD-E  
RN101874030  
Effluent Violation Table

2008	pH Maximum Concentration, 9 Standard Units	Total Suspended Solids, Daily Maximum Concentration, 65 mg/L
February	12.1	C
June	11.9	174
August	10.9	C
October	C	440
November	C	451
December	C	86
pH = degree of acidity    mg/L = milligram per liter    C = compliant		



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601021314	Coston & Son, Inc.	Classification: AVERAGE	Rating: 21.00
Regulated Entity:	RN101874030	COSTON & SON READY MIX CONCRETE	Classification: AVERAGE	Site Rating: 21.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	4661
	AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS AIR NEW SOURCE PERMITS WASTE WATER GENERAL PERMIT		PERMIT ACCOUNT NUMBER AFS NUM PERMIT	31808 931808D 4827700246 TXG110508
Location:	155 E OAK AVE, PARIS, TX, 75460			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	August 25, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 30, 2004 to July 30, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Harvey Wilson</u>		Phone:	<u>239 - 0321</u>

## 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? Yes
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	03/07/2005	{392218}
2	08/07/2008	{720875}
3	10/27/2008	{719550}
4	10/27/2008	{719551}
5	10/27/2008	{719552}
6	10/27/2008	{719553}

7	10/27/2008	(719554)
8	10/27/2008	(719555)
9	10/27/2008	(719556)
10	10/27/2008	(719557)
11	10/27/2008	(719558)
12	10/27/2008	(719559)
13	10/27/2008	(719560)
14	10/27/2008	(719561)
15	10/27/2008	(719562)
16	10/27/2008	(719563)
17	10/27/2008	(719564)
18	10/27/2008	(719565)
19	10/27/2008	(719566)
20	10/27/2008	(719567)
21	10/27/2008	(719568)
22	10/27/2008	(719569)
23	10/27/2008	(719570)
24	11/19/2008	(734642)
25	12/01/2008	(734643)
26	01/20/2009	(757877)
27	07/23/2009	(748595)

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

Date:	02/28/2007 (719552)	CN601021314	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2007 (719556)	CN601021314	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2007 (719562)	CN601021314	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2007 (719569)	CN601021314	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/29/2008 (719553)	CN601021314	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2008 (719561)	CN601021314	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		



Date:	08/31/2008	(719565)	CN601021314
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2008	(734642)	CN601021314
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2008	(734643)	CN601021314
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2008	(719551)	CN601021314
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

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  
COSTON & SON, INC.  
RN101874030**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1220-IWD-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 Coston & Son, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a ready mix concrete plant at 155 East Oak Avenue in Paris, Lamar County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 28, 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 Ten Thousand Four Hundred Forty Dollars (\$10,440) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Three Hundred Fifty-Two Dollars

(\$8,352) of the administrative penalty and Two Thousand Eighty-Eight Dollars (\$2,088) 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 Facility, the Respondent is alleged to have failed to comply with the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ General Permit No. TXG110508, Part III, Section A, as documented during a record review conducted on June 8, 2009, and depicted in the table below:

Effluent Violation Table

2008	pH Maximum Concentration, 9 Standard Units	Total Suspended Solids, Daily Maximum Concentration, 65 mg/L
February	12.1	C
June	11.9	174
August	10.9	C
October	C	440
November	C	451
December	C	86

pH = degree of acidity    mg/L = milligram per liter    C = compliant

## 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: Coston & Son, Inc., Docket No. 2009-1220-IWD-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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TCEQ General Permit No. TXG110508, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

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 Facility 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

2/17/2010  
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

1-25-2010  
Date

TRAVA COSTON ABLES  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Coston & Son, Inc.

PRESIDENT  
\_\_\_\_\_  
Title

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

