

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-2063-IWD-E TCEQ ID: RN104120415 CASE NO.: 38888
RESPONDENT NAME: Southern Star Concrete, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Greenspoint Plant, 1123 Goodnight Trail, Houston, Harris County</p> <p>TYPE OF OPERATION: Concrete batch facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 May 10, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jordan Jones, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Tommy Abbott, President, Southern Star Concrete, Inc., 8500 Freeport Parkway, Irving, Texas 75063 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 6, 2009</p> <p>Date of NOV/NOE Relating to this Case: December 10, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limit for total suspended solids ("TSS"). Specifically, the TSS daily maximum for the monitoring periods ending February 28, 2009 and April 30, 2009 were 120 milligrams per liter ("mg/L") and 110 mg/L, which exceeds the permit limit of 65 mg/L [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110453, Part III, Section A, Permit Requirements].</p> <p>2) Failure to monitor for each parameter at the frequency specified in the permit. Specifically, the Respondent did not collect and analyze samples for pH, total suspended solids, oil and grease, and flow for the monitoring period ending June 30, 2008 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG110453, Part IV, Standard Permit Conditions No. 7].</p>	<p>Total Assessed: \$1,631</p> <p>Total Deferred: \$326 <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: \$1,305</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input 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, update the Facility's operational guidance and continue to conduct employee training to ensure that required parameters are analyzed at the frequencies specified in the permit;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a; and</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG110453, 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): TXG110453



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Dec-2009	Screening	15-Dec-2009	EPA Due	
	PCW	5-Jan-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Southern Star Concrete, Inc.
Reg. Ent. Ref. No.	RN104120415
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38888	No. of Violations	2
Docket No.	2009-2063-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jordan Jones
		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	\$1,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
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Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7	\$105
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Notes
A penalty adjustment is recommended for two self-reported effluent violations, one disclosed environmental audit, and one notice of intent.

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

Good Faith Effort to Comply: Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
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Total EB Amounts \$376
Approx. Cost of Compliance \$5,275
**Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,605
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.6%	Adjustment	\$26
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
Enhancement is recommended to recover avoided costs associated with violation No. 2.

Final Penalty Amount	\$1,631
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,631
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DEFERRAL	20.0% Reduction	Adjustment	-\$326
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,305
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Screening Date 15-Dec-2009

Docket No. 2009-2063-IWD-E

PCW

Respondent Southern Star Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104120415

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
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) 7%

>> 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

A penalty adjustment is recommended for two self-reported effluent violations, one disclosed environmental audit, and one notice of intent.

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

Screening Date 15-Dec-2009

Docket No. 2009-2063-IWD-E

PCW

Respondent Southern Star Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104120415

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(f), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110453, Part III, Section A, Permit Requirements

Violation Description

Failed to comply with the permitted effluent limit for total suspended solids ("TSS"), as documented in a record review conducted on October 6, 2009. Specifically, the TSS daily maximum for the monitoring periods ending February 28, 2009 and April 30, 2009 were 120 milligrams per liter ("mg/L") and 110 mg/L, which exceeds the permit limit of 65 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

Number of violation days .61

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$327

Violation Final Penalty Total \$1,087

This violation Final Assessed Penalty (adjusted for limits) \$1,087

Economic Benefit Worksheet

Respondent: Southern Star Concrete, Inc.

Case ID No.: 38888

Reg. Ent. Reference No.: RN104120415

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				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)	\$5,000	28-Feb-2009	20-Jun-2010	1.31	\$327	n/a	\$327

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected 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

\$5,000

TOTAL

\$327

Screening Date 15-Dec-2009

Docket No. 2009-2063-IWD-E

PCW

Respondent Southern Star Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38898

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104120415

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TPDES-General Permit No. TXG110453, Part IV, Standard Permit Conditions No. 7

Violation Description

Failed to monitor for each parameter at the frequency specified in the permit, as documented in a record review conducted on October 6, 2009. Specifically, the Respondent did not collect and analyze samples for pH, total suspended solids, oil and grease, and flow for the monitoring period ending June 30, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$51

Violation Final Penalty Total \$544

This violation Final Assessed Penalty (adjusted for limits) \$544

Economic Benefit Worksheet

Respondent: Southern Star Concrete, Inc.

Case ID No.: 38888

Reg. Ent. Reference No.: RN104120415

Media: Water Quality

Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

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	30-Jun-2008	1-Jul-2010	2.00	\$25	n/a	\$25
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 for updating the Facility's operational guidance and to conduct employee training to ensure that required parameters are analyzed each month. Date required is the initial month of noncompliance. Final date is the anticipated 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)	\$25	1-Jun-2008	30-Jul-2008	1.08	\$1	\$25	\$26

Notes for AVOIDED costs

Estimated cost that was avoided by failure to analyze the required parameters at \$25 per month. Date required is the first day of the month the sampling was due. Final date is the last day of the month in which the June 2008 sampling was due.

Approx. Cost of Compliance

\$275

TOTAL

\$51

Compliance History Report

Customer/Respondent/Owner-Operator: CN602421679 Southern Star Concrete, Inc. Classification: AVERAGE Rating: 1.44
Regulated Entity: RN104120415 GREENSPPOINT PLANT Classification: HIGH Site Rating: 0.05
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG7261G
AIR NEW SOURCE PERMITS REGISTRATION 80242
AIR NEW SOURCE PERMITS REGISTRATION 25243
AIR NEW SOURCE PERMITS AFS NUM 4820101814
PETROLEUM STORAGE TANK REGISTRATION 56216
REGISTRATION
WASTE WATER GENERAL PERMIT PERMIT TXG110453
Location: 1123 GOODNIGHT TRAIL HARRIS COUNTY, TEXAS
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: December 14, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 14, 2004 to December 14, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jordan Jones Phone: 512-239-2569

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

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	04/26/2005	(429372)
2	04/26/2005	(429373)
3	04/26/2005	(429374)
4	07/20/2005	(448933)
5	07/20/2005	(448934)
6	07/20/2005	(448935)
7	10/25/2005	(495820)
8	10/25/2005	(495822)
9	10/25/2005	(495824)
10	12/20/2005	(495821)
11	12/20/2005	(495823)
12	12/20/2005	(495825)
13	12/20/2005	(495827)
14	12/20/2005	(495829)
15	12/20/2005	(495830)
16	01/17/2006	(495826)
17	01/17/2006	(495828)
18	04/19/2006	(508076)
19	04/19/2006	(508077)

20	04/19/2006	(508078)
21	07/17/2006	(530382)
22	07/17/2006	(530383)
23	07/17/2006	(530384)
24	10/20/2006	(553122)
25	10/20/2006	(553123)
26	10/20/2006	(553124)
27	01/23/2007	(591720)
28	01/23/2007	(591721)
29	01/23/2007	(591722)
30	02/20/2007	(591715)
31	03/26/2007	(591716)
32	04/20/2007	(591717)
33	05/18/2007	(591718)
34	06/21/2007	(591719)
35	07/25/2007	(606803)
36	09/24/2007	(606805)
37	09/28/2007	(606804)
38	12/07/2007	(635156)
39	12/07/2007	(635157)
40	12/27/2007	(635158)
41	01/23/2008	(678634)
42	02/25/2008	(678633)
43	03/24/2008	(697871)
44	04/17/2008	(697872)
45	05/19/2008	(697873)
46	06/23/2008	(719387)
47	07/24/2008	(719388)
48	08/21/2008	(719389)
49	09/09/2008	(719390)
50	10/10/2008	(719391)
51	11/20/2008	(734543)
52	12/12/2008	(734544)
53	01/13/2009	(734545)
54	03/18/2009	(757778)
55	04/16/2009	(757779)
56	04/16/2009	(757780)
57	05/08/2009	(774315)
58	06/08/2009	(774316)
59	11/24/2009	(783795)
60	12/10/2009	(778445)

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

Date:	02/28/2009 (757779)	CN602421679	
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:	04/30/2009 (774315)	CN602421679	
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.

Notice of Intent Date: 07/15/2008 (700602)

Disclosure Date: 07/01/2009

Viol. Classification: Moderate

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

30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt PERMIT 25243

Description: Failure to comply with permit limits for annual production capacity.

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

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHERN STAR CONCRETE, INC.
RN104120415

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-2063-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 Southern Star Concrete, 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 concrete batch facility at 1123 Goodnight Trail, Harris 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 December 15, 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 One Thousand Six Hundred Thirty-One Dollars (\$1,631) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Three Hundred Five Dollars (\$1,305) of the administrative penalty and Three Hundred Twenty-Six Dollars (\$326) 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:

1. Failed to comply with the permitted effluent limit for total suspended solids ("TSS"), in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110453, Part III, Section A, Permit Requirements. Specifically, the TSS daily maximum for the monitoring periods ending February 28, 2009 and April 30, 2009 were 120 milligrams per liter ("mg/L") and 110 mg/L, which exceeds the permit limit of 65 mg/L, as documented during a record review conducted on October 6, 2009.
2. Failed to monitor for each parameter at the frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG110453, Part IV, Standard Permit Conditions No. 7. Specifically, the Respondent did not collect and analyze samples for pH, total suspended solids, oil and grease, and flow for the monitoring period ending June 30, 2008, as documented during a record review conducted on October 6, 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: Southern Star Concrete, Inc., Docket No. 2009-2063-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and continue to conduct employee training to ensure that required parameters are analyzed at the frequencies specified in the permit;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. in accordance with Ordering Provision No. 2.c. below; and
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG110453, 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

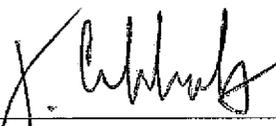
Date 3/30/2010

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 2/25/10

TOMMY ABBOTT

Name (Printed or typed)
Authorized Representative of
Southern Star Concrete, Inc.

Title PRESIDENT

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.

