

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0416-AIR-E **TCEQ ID:** RN105670624 **CASE NO.:** 37372
RESPONDENT NAME: Janes Pavement Services, 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 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: Janes Pavement Services, 615 16th Street, Huntsville, Walker County</p> <p>TYPE OF OPERATION: Rock crusher and bulk mineral storage stockpile</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on December 3, 2008, alleging dust nuisance conditions. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 26, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Ann Janes, Director and Secretary/Treasurer, Janes Pavement Services, Inc., 615 16th Street, Huntsville, Texas 77340 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: December 3, 2008</p> <p>Date of Investigation Relating to this Case: December 5, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 17, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failure to obtain authorization for a rock crusher. Specifically, the Respondent operated a rock crusher on October 31, 2008, prior to obtaining authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p> <p>2) Failure to obtain authorization for bulk mineral storage stockpiles [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p>Total Assessed: \$11,000</p> <p>Total Deferred: \$200 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$300 (remaining \$10,500 due in 35 monthly payments of \$300 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent obtained permit authorization to operate a rock crusher on October 5, 2009.</p>

Additional ID No(s): RN105670624



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	23-Feb-2009	Screening	27-Feb-2009	EPA Due	
	PCW	27-Feb-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Janes Pavement Services, Inc.
Reg. Ent. Ref. No.	RN105670624
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37372	No. of Violations	2
Docket No.	2009-0416-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kirk Schoppe
		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	\$11,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.		
Compliance History	0.0% Enhancement	Subtotal 2, 3, & 7 \$0
Notes	No change 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
Total EB Amounts	\$107	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,400	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,000
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	Final Penalty Amount	\$11,000
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$11,000
DEFERRAL	1.8% Reduction	Adjustment -\$200
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	No deferral is offered for violation No. 1 because a mandatory statutory penalty amount is being assessed. Deferral offered for violation No. 2.	
PAYABLE PENALTY		\$10,800

Screening Date 27-Feb-2009

Docket No. 2009-0416-AIR-E

PCW

Respondent Janes Pavement Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105670624

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

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%

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) 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 change due to average performer classification.

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

Screening Date 27-Feb-2009	Docket No. 2009-0416-AIR-E	PCW					
Respondent Janes Pavement Services, Inc.		<small>Policy Revision 2 (September 2002)</small>					
Case ID No. 37372		<small>PCW Revision October 30, 2008</small>					
Reg. Ent. Reference No. RN105670624							
Media [Statute] Air							
Enf. Coordinator Kirk Schoppe							
Violation Number 1							
Rule Cite(s)	30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)						
Violation Description	Failed to obtain authorization for a rock crusher, as documented during an investigation conducted on December 5, 2008. Specifically, the Respondent operated a rock crusher on October 31, 2008, prior to obtaining authorization.						
	Base Penalty	\$10,000					
>> Environmental, Property and Human Health Matrix							
OR	Release	Harm					
		Major Moderate Minor					
	Actual	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>					
	Potential	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>					
		Percent 0%					
>> Programmatic Matrix							
	Falsification	Major	Moderate	Minor			
	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%; text-align: center;">X</td><td style="width:33%;"></td></tr></table>		X				
	X						
				Percent 10%			
Matrix Notes	Pursuant to Texas Water Code § 7.052(b), a rock crusher without permit authorization is penalized \$10,000 each day that a continuing violation occurs.						
				Adjustment \$0			
				\$10,000			
Violation Events							
	Number of Violation Events	1	Number of violation days	1			
<small>mark only one with an x</small>	daily	<input checked="" 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 type="checkbox"/>					
				Violation Base Penalty \$10,000			
	One daily event is recommended based on the one day in operation.						
Good Faith Efforts to Comply							
		0.0% Reduction		\$0			
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>					
	Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>				
	Ordinary	<input type="checkbox"/>	<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 \$10,000			
Economic Benefit (EB) for this violation							
	Estimated EB Amount	\$70	Statutory Limit Test				
			Violation Final Penalty Total	\$10,000			
			This violation Final Assessed Penalty (adjusted for limits)	\$10,000			

Economic Benefit Worksheet

Respondent: Janes Pavement Services, Inc.

Case ID No.: 37372

Reg. Ent. Reference No.: RN105670624

Media: Air

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

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	\$1,500	31-Oct-2008	5-Oct-2009	0.93	\$70	n/a	-\$70
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a Tier II permit application. Date Required is based on the documented date in violation and Final Date is the 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

\$1,500

TOTAL

\$70

Screening Date 27-Feb-2009	Docket No. 2009-0416-AIR-E	PCW				
Respondent Janes Pavement Services, Inc.	<small>Policy Revision 2 (September 2002)</small>					
Case ID No. 37372	<small>PCW Revision October 30, 2008</small>					
Reg. Ent. Reference No. RN105670824						
Media [Statute] Air						
Enf. Coordinator Kirk Schoppe						
Violation Number 2						
Rule Cite(s)	30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)					
Violation Description	Failed to obtain authorization for bulk mineral storage stockpiles, as documented during an investigation conducted on December 5, 2008.					
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	0%			
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		Percent	10%			
Matrix Notes	100% of the rule requirement was not met.					
		Adjustment	\$9,000			
					\$1,000	
Violation Events						
Number of Violation Events		1	Number of violation days		84	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>				
	weekly	<input type="checkbox"/>				
	monthly	<input type="checkbox"/>				
	quarterly	<input checked="" type="checkbox"/>				
	semiannual	<input type="checkbox"/>				
	annual	<input type="checkbox"/>				
single event	<input type="checkbox"/>					
					Violation Base Penalty	\$1,000
One quarterly event is recommended from the investigation date (December 5, 2008) to the screening date (February 27, 2009).						
Good Faith Efforts to Comply		0.0% Reduction		\$0		
		Before NOV	NOV to EDPRP/Settlement Offer			
Extraordinary	<input type="checkbox"/>					
Ordinary	<input type="checkbox"/>					
N/A	<input checked="" type="checkbox"/>	(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		\$37		Violation Final Penalty Total		\$1,000
				This violation Final Assessed Penalty (adjusted for limits)		\$1,000

Economic Benefit Worksheet

Respondent: Janes Pavement Services, Inc.

Case ID No.: 37372

Reg. Ent. Reference No.: RN105670624

Media: Air

Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$900	5-Dec-2008	5-Oct-2009	0.83	\$37	n/a	\$37
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to submit a Permit By Rule application. Date Required is based on the investigation date and Final Date is the 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	\$900	TOTAL:	\$37
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603436593 Janes Pavement Services, Inc. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105670624 JANES PAVEMENT SERVICES Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 88481
Location: 615 16TH ST, HUNTSVILLE, TX, 77340
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: June 14, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 27, 2004 to February 27, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Kirk Schoppe Phone: 239 - 0489

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
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).
 - 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
JANES PAVEMENT SERVICES, INC.
RN105670624

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0416-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 Janes Pavement Services, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a rock crusher and bulk mineral storage stockpile at 615 16th Street in Huntsville, Walker County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 22, 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 Eleven Thousand Dollars (\$11,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Dollars (\$300) of the administrative penalty and Two Hundred Dollars

(\$200) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Ten Thousand Five Hundred Dollars (\$10,500) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Dollars (\$300) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent obtained permit authorization to operate a rock crusher on October 5, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to obtain authorization for a rock crusher, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on December 5, 2008. Specifically, the Respondent operated a rock crusher on October 31, 2008, prior to obtaining authorization.

2. Failed to obtain authorization for bulk mineral storage stockpiles, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on December 5, 2008.

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: Janes Pavement Services, Inc., Docket No. 2009-0416-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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.

6. 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.
7. 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

John S. ...
For the Executive Director

7/1/2010
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.

Ann M. Janes
Signature

5-31-10
Date

Ann M. Janes
Name (Printed or typed)
Authorized Representative of
Janes Pavement Services, Inc.

Secretary / treasurer
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.

