

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0430-AIR-E **TCEQ ID:** RN105700249 and RN105700256

CASE NO.: 39353

RESPONDENT NAME: Stice Enterprises, 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: SI-LOW Serial No 0108114-6 and SI-LOW Serial No 0108113-6, 5825 Quebec Road, Fort Worth, Tarrant County</p> <p>TYPE OF OPERATION: Portable cement silos</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on January 5, 2010, alleging that the Respondent was operating a portable cement mixing operation without proper authorization. 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 December 27, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Dempsey T. Stice, President, Stice Enterprises, Inc., 2718 Clear Lake Road, Weatherford, Texas 76087 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: January 5, 2010</p> <p>Date of Investigation Relating to this Case: January 14, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 12, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failed to obtain authorization to construct a portable cement silo. Specifically, during the investigation it was documented that the Respondent set up a silo (Serial No. 0108113-6) at 5825 Quebec Road, Fort Worth, Texas, prior to obtaining authorization from the TCEQ [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p> <p>2) Failed to obtain authorization to construct a portable cement silo. Specifically, during the investigation it was documented that the Respondent set up a silo (Serial No. 0108114-6) at 5825 Quebec Road, Fort Worth, Texas, prior to obtaining authorization from the TCEQ [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p>	<p>Total Assessed: \$3,550</p> <p>Total Deferred: \$710 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,840</p> <p>Compliance History Classification: RN105700256 and RN105700249 Person/CN – Average Site/RN – Average</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, on January 20, 2010, the Respondent ceased operation of the Plant, and initiated procedures to ensure proper authorization prior to subsequent operation at this or other sites.</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, complete the implementation of procedures designed to ensure that, prior to construction or operation of a portable cement silo at this or a subsequent site, authorization from the TCEQ is obtained;</p> <p>b. Within 45 days after the effective date of this Agreed Order, in order to authorize operations of the silos at 5825 Quebec Road, Fort Worth, Texas, submit an administratively complete permit application or permit by rule registration;</p> <p>c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application or permit by rule registration within 30 days after the date of such requests, or by any other deadline specified in writing;</p> <p>d. Within 90 days after the effective date of this Agreed Order, either obtain authorization to operate the two portable cement silos (Serial Nos. 0108113-6 and 0108114-6) at 5825 Quebec Road, Fort Worth, Texas, or remove the silos from that site; and</p> <p>e. Within 110 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a., b., and d.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	15-Mar-2010	Screening	18-Mar-2010	EPA Due	
	PCW	5-Apr-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Slice Enterprises, Inc.
Reg. Ent. Ref. No.	RN105700249
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39353	No. of Violations	1
Docket No.	2010-0430-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		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*

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History *Subtotals 2, 3, & 7*

Notes

Culpability *Subtotal 4*

Notes

Good Faith Effort to Comply Total Adjustments *Subtotal 5*

Economic Benefit *Subtotal 6*

Total EB Amounts	\$777
Approx. Cost of Compliance	\$1,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL Reduction *Adjustment*

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

Notes

PAYABLE PENALTY

Screening Date: 18-Mar-2010

Docket No. 2010-0430-AIR-E

PCW

Respondent: Slice Enterprises, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39353

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105700249

Media [Statute]: Air

Enf. Coordinator: Miriam Hall

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 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) 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 adjustment due to compliance history.

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

Screening Date 18-Mar-2010

Docket No. 2010-0430-AIR-E

PCW

Respondent Slice Enterprises, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39353

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105700249

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description Failed to obtain authorization to construct a portable cement silo, as documented during an investigation conducted on January 14, 2010. Specifically, during the investigation it was documented that the Respondent set up a silo (Serial No. 0108113-6) at 5825 Quebec Road, Fort Worth, Texas, prior to obtaining authorization from the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			10%

Matrix Notes The Respondent failed to comply with 100% of the rule.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 6

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, from the date of the investigation (January 14, 2010) to the date the Respondent ceased operating the silo (January 20, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to ED/PRP/Settlement
	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 \$777

Violation Final Penalty Total \$1,750

This violation Final Assessed Penalty (adjusted for limits) \$1,750

Economic Benefit Worksheet

Respondent: Silco Enterprises, Inc.
Case ID No.: 39353
Reg. Ent. Reference No.: RN105700249
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction							
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$750	14-Jan-2010	1-Oct-2010	0.71	\$27	n/a	\$27
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

Estimated costs to establish a record keeping system designed to ensure proper authorization is obtained prior to future silo moves. The Date Required is the date the silo was documented on the site, and the Final Date is when the record keeping system is expected to be implemented.

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]	\$750	14-Jan-2010	20-Jan-2010	0.00	\$0	\$750	\$750
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs to prepare and submit a request to authorize silo emissions at the site. The Date Required is the date the silo was documented on the site, and the Final Date is the date the Respondent ceased silo operations.

Approx. Cost of Compliance

\$1,500

TOTAL

\$777

Compliance History Report

Customer/Respondent/Owner-Operator: CN603162835 STICE ENTERPRISES, INC. Classification: AVERAGE Rating: 2.84
Regulated Entity: RN106700249 SI-LOW SERIAL NO 0108113-6 Classification: AVERAGE BY DEFAULT Site Rating: 3.01
ID Number(s):
Location: PORTABLE
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: March 17, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 17, 2005 to March 17, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Miriam Hall Phone: (512) 239-1044

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).
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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	15-Mar-2010	Screening	18-Mar-2010	EPA Due	
	PCW	5-Apr-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Stice Enterprises, Inc.		
Reg. Ent. Ref. No.	RN105700256		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39353	No. of Violations	1
Docket No.	2010-0430-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		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** **\$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **6.0% Enhancement** **Subtotals 2, 3, & 7** **\$50**

Notes The penalty was enhanced by one NOV for the same or 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	\$777
Approx. Cost of Compliance	\$1,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,050**

OTHER FACTORS AS JUSTICE MAY REQUIRE **71.4%** **Adjustment** **\$750**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with Violation 1.

Final Penalty Amount **\$1,800**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,800**

DEFERRAL **20.0%** **Reduction** **Adjustment** **-\$360**

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 **\$1,440**

Screening Date 18-Mar-2010

Docket No. 2010-0430-AIR-E

PCW

Respondent: Stice Enterprises, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39353

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105700256

Media [Statute] Air

Enf. Coordinator: Miriam Hall

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)	1	5%
	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)	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by one NOV for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 18-Mar-2010

Docket No. 2010-0430-AIR-E

PCW

Respondent Slice Enterprises, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39353

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105700256

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description

Failed to obtain authorization to construct a portable cement silo, as documented during an investigation conducted on January 14, 2010. Specifically, during the investigation it was documented that the Respondent set up a silo (Serial No. 0108114-6) at 5825 Quebec Road, Fort Worth, Texas, prior to obtaining authorization from the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

The Respondent failed to comply with 100% of the rule.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

6 Number of violation days

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, from the date of the investigation (January 14, 2010) to the date the Respondent ceased operating the silo (January 20, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement
	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 \$777

Violation Final Penalty Total \$1,800

This violation Final Assessed Penalty (adjusted for limits) \$1,800

Economic Benefit Worksheet

Respondent: Stice Enterprises, Inc.
Case ID No.: 39353
Reg. Ent. Reference No.: RN105700256
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$750	14-Jan-2010	1-Oct-2010	0.71	\$27	n/a	\$27
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

Estimated costs to establish a record keeping system designed to ensure proper authorization is obtained prior to future silo moves. The Date Required is the date the silo was documented on the site, and the Final Date is when the record keeping system is expected to be implemented.

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]	\$750	14-Jan-2010	20-Jan-2010	0.00	\$0	\$750	\$750
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs to prepare and submit a request to authorize silo emissions at the site. The Date Required is the date the silo was documented on the site, and the Final Date is the date the Respondent ceased silo operations.

Approx. Cost of Compliance

\$1,500

TOTAL

\$777

Compliance History Report

Customer/Respondent/Owner-Operator: CN603162835 STICE ENTERPRISES, INC. Classification: AVERAGE Rating: 2.84
Regulated Entity: RN105700256 SI-LOW SERIAL NO 0108114-6 Classification: AVERAGE Site Rating: 2.50
ID Number(s):
Location: PORTABLE ACCOUNT
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: March 17, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 17, 2006 to March 17, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Miriam Hall Phone: (512) 239-1044

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.)
1 05/19/2009 (745889)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 03/30/2009 (736088)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)
Description: Failure to obtain authorization prior to operation as required by 30 TAC § 116.110(a).
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
STICE ENTERPRISES, INC.
RN105700256
RN105700249

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0430-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 Stice Enterprises, 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 operated two portable cement silos located at 5825 Quebec Road in Fort Worth, Tarrant 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 March 17, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Five Hundred Fifty Dollars (\$3,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Forty Dollars (\$2,840) of the administrative penalty and Seven Hundred Ten Dollars (\$710) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that, on January 20, 2010, the Respondent ceased operation of the Plant, and initiated procedures to ensure proper authorization prior to subsequent operation at this or other sites.
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 to construct a portable cement silo, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on January 14, 2010. Specifically, during the investigation it was documented that the Respondent set up a silo (Serial No. 0108113-6) at 5825 Quebec Road, Fort Worth, Texas, prior to obtaining authorization from the TCEQ.
2. Failed to obtain authorization to construct a portable cement silo, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on January 14, 2010. Specifically, during the investigation it was documented that the Respondent set up a silo (Serial No. 0108114-6) at 5825 Quebec Road, Fort Worth, Texas, prior to obtaining authorization from the TCEQ.

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: Stice Enterprises, Inc., Docket No. 2010-0430-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, complete the implementation of procedures designed to ensure that, prior to construction or operation of a portable cement silo at this or a subsequent site, authorization from the TCEQ is obtained;
 - b. Within 45 days after the effective date of this Agreed Order, in order to authorize operations of the silos at 5825 Quebec Road, Fort Worth, Texas, submit an administratively complete permit application or permit by rule registration, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

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

- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application or permit by rule registration within 30 days after the date of such requests, or by any other deadline specified in writing;
- d. Within 90 days after the effective date of this Agreed Order, either obtain authorization to operate the two portable cement silos (Serial Nos. 0108113-6 and 0108114-6) at 5825 Quebec Road, Fort Worth, Texas, or remove the silos from that site; and
- e. Within 110 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering

Provision Nos. 2.a., 2.b., and 2.d. 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:

Air Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

and

Environmental Program Manager
Environmental Management Division
The City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102-6311

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 Plant 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

John S. Stice
For the Executive Director

12/16/2010
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.

Dempsey T. Stice
Signature

21 OCT 10
Date

DEMPOSEY T. STICE / President
Name (Printed or typed)
Authorized Representative of
Stice Enterprises, 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.