

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2009-2019-WQ-E

RN105445696

CASE NO. 38832

RESPONDENT NAME: SUNRISE MATERIALS, L.P.

ORDER TYPE:		
<input checked="" type="checkbox"/> 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 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

SITE WHERE VIOLATION(S) OCCURRED: 25963 Sorters Road, Porter, Montgomery County

TYPE OF OPERATION: sand and gravel mining operation

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement action/s regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired February 7, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Rosetta Foard, Water Enforcement Section, MC 169, (512) 239-2554

TCEQ Regional Contact: Steve Smith, Houston Regional Office, MC R-12, (713) 767-3581

Respondent: Rob Van Til, SUNRISE MANAGEMENT, LLC, General Partner, SUNRISE MATERIALS, L.P., P.O. Box 190, Porter, Texas 77365

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaint(s): N/A</p> <p>Date of Investigation: September 29, 2009</p> <p>Date of NOE: November 18, 2009</p> <p>Background Facts: The EDPRP was filed on September 28, 2010. The Agreed Order was signed on November 19, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation demonstrating compliance with the technical requirements.</p> <p>WQ:</p> <ol style="list-style-type: none"> Failed to conduct quarterly visual monitoring and Site inspections for the last two quarters of 2008 and the first two quarters of 2009 [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05W051, Part III., Section A.5.(g) and (h)]. Failed to conduct annual employee training during 2008 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.5.(f)]. Failed to conduct the annual comprehensive compliance Site evaluation during 2008 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.7.]. Failed to conduct annual numeric effluent limitations monitoring during 2008 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section D.]. Failed to conduct semiannual benchmark monitoring for the second half of 2008 and the first half of 2009 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part IV., Section C.]. 	<p>Total Assessed: \$12,299</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$399/\$11,900</p> <p>Respondent paid \$399 of the administrative penalty. The remaining amount of \$11,900 shall be payable in 35 monthly payments of \$340 each</p> <p>Compliance History Classifications: <i>Person/CN – Average</i> <i>Site/RN – Average</i></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 July 29, 2010, Respondent submitted the non-storm water certification for the Site (Violation 6).</p> <p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Update operational procedures to ensure that requirements of the storm water pollution prevention plan ("SWP3") will be fulfilled; Begin conducting quarterly visual monitoring and Site inspections (Violation 1); Develop and implement an employee training and education program (Violation 2); Begin conducting the annual comprehensive compliance evaluations to assess the overall effectiveness of the SWP3 and modify as needed (Violation 3); Begin conducting annual numeric effluent limitations monitoring (Violation 4); Begin conducting semiannual benchmark monitoring (Violation 5); and Install a rain gauge at the Site (Violation 7). Within 45 days, submit written certification demonstrating compliance.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>6. Failed to submit the non-storm water certification within 180 days of filing a Notice of Intent ("NOI") for permit coverage [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.3.(c)].</p> <p>7. Failed to maintain a rain gauge at the Site [30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section C.1.(c)].</p>		

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Mar-2010	Screening	11-Mar-2010	EPA Due	
	PCW	13-Aug-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	SUNRISE MATERIALS, L.P.
Reg. Ent. Ref. No.	RN105445696
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	38832	No. of Violations	7	
Docket No.	2009-2019-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Lanae Foard	
		EC's Team	Enforcement Team 1	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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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.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$500
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Notes An enhancement is recommended due to one NOV with same or similar violations.

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 \$1,872
 Approx. Cost of Compliance \$2,475
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	17.1%	Adjustment	\$1,799
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to collect avoided costs associated with Violation Nos. 1 through 5.

Final Penalty Amount	\$12,299
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,299
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$12,299
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Screening Date 11-Mar-2010

Docket No. 2009-2019-WQ-E

PCW

Respondent SUNRISE MATERIALS, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38832

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105445696

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended due to one NOV with same or similar violations.

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

Screening Date	11-Mar-2010	Docket No.	2009-2019-WQ-E	PCW
Respondent	SUNRISE MATERIALS, L.P.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38832			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105445696			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit No. TXR05W051, Part III., Section A.5.(g) and (h)			
Violation Description	Failed to conduct the quarterly visual monitoring and site inspections for the last 2 quarters of 2008 and the first two quarters of 2009, as documented during an investigation conducted on September 29, 2009.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	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 this violation.				
					Adjustment \$9,500

\$500

Violation Events

Number of Violation Events	4	365	Number of violation days
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	
			Violation Base Penalty \$2,000
	Four single events are recommended, one for each quarter that visual monitoring and site inspections were not conducted.		

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 \$2,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount	\$368	Violation Final Penalty Total	\$2,460
		This violation Final Assessed Penalty (adjusted for limits)	\$2,460

Economic Benefit Worksheet

Respondent SUNRISE MATERIALS, L.P.
Case ID No. 38832
Reg. Ent. Reference No. RN105445696
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)	\$500	20-Mar-2009	7-Oct-2010	1.55	\$3	\$52	\$54
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update operational procedures to ensure that requirements of the storm water pollution prevention plan will be fulfilled in the future. Date required is the date the violation was documented. 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	\$400	30-Sep-2008	30-Jun-2009	0.75	\$15	\$299	\$314
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

Estimated cost to conduct and document site inspections and quarterly visual monitoring of the storm water discharges from each outfall. Date required is the date the first inspection and visual monitoring were due. Final date is the date the last inspection and visual monitoring were due.

Approx. Cost of Compliance

\$900

TOTAL

\$368

Screening Date 11-Mar-2010 **Docket No.** 2009-2019-WQ-E **PCW**
Respondent SUNRISE MATERIALS, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 38832 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105445696
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Multi-Sector General Permit No. TXR05W051, Part III., Section A.5.(f)
Violation Description Failed to conduct annual employee training during 2008, as documented during an investigation conducted on September 29, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

One annual event is recommended for 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/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 \$250

Violation Final Penalty Total \$1,230

This violation Final Assessed Penalty (adjusted for limits) \$1,230

Economic Benefit Worksheet

Respondent SUNRISE MATERIALS, L.P.
Case ID No. 38832
Reg. Ent. Reference No. RN105445696
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
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed costs for this violation have been included with Violation No. 1.

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]	\$250	31-Dec-2008	1-Jan-2009	0.00	\$0	\$250	\$250
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct and document employee training . Date required is the date the training was due. Final date is the day after the training was due.

Approx. Cost of Compliance

\$250

TOTAL

\$250

Screening Date 11-Mar-2010 **Docket No.** 2009-2019-WQ-E **PCW**
Respondent SUNRISE MATERIALS, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 38832 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105445696
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Multi-Sector General Permit No. TXR05W051, Part III., Section A.7.
Violation Description Failed to conduct the annual comprehensive compliance site evaluation during 2008, as documented during an investigation conducted on September 29, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which could exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

One annual event is recommended for 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/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 \$200 **Violation Final Penalty Total** \$1,230

This violation Final Assessed Penalty (adjusted for limits) \$1,230

Economic Benefit Worksheet

Respondent SUNRISE MATERIALS, L.P.
Case ID No. 38832
Reg. Ent. Reference No. RN105445696
Media Water Quality
Violation No. 3

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed costs for this violation have been included with Violation No. 1.

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]	\$200	31-Dec-2008	1-Jan-2009	0.00	\$0	\$200	\$200
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct a comprehensive compliance site evaluation. Date required is the date the evaluation was due. Final date is the day after the evaluation was due.

Approx. Cost of Compliance

\$200

TOTAL

\$200

Screening Date 11-Mar-2010 **Docket No.** 2009-2019-WQ-E **PCW**
Respondent SUNRISE MATERIALS, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 38832 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105445696
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Multi-Sector General Permit No. TXR05W051, Part III., Section D.
Violation Description Failed to conduct annual numeric effluent limitations monitoring during 2008, as documented during an investigation conducted on September 29, 2009.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which could exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended for 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$500

Violation Final Penalty Total \$3,075

This violation Final Assessed Penalty (adjusted for limits) \$3,075

Economic Benefit Worksheet

Respondent SUNRISE MATERIALS, L.P.
Case ID No. 38832
Reg. Ent. Reference No. RN105445696
Media Water Quality
Violation No. 4

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed costs for this violation have been included with Violation No. 1.

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]	\$500	31-Dec-2008	1-Jan-2009	0.00	\$0	\$500	\$500
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct and report numeric effluent monitoring of the storm water discharges at each outfall. Date required is the date the effluent discharge monitoring was due. Final date is the day after the effluent discharge monitoring was due.

Approx. Cost of Compliance

\$500

TOTAL

\$500

Screening Date 11-Mar-2010 **Docket No.** 2009-2019-WQ-E **PCW**
Respondent SUNRISE MATERIALS, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 38832 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105445696
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Multi-Sector General Permit No. TXR05W051, Part IV., Section C.
Violation Description Failed to conduct semiannual benchmark monitoring for the second half of 2008 and the first half of 2009, as documented during an investigation conducted on September 29, 2009.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential		x			

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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

Adjustment \$9,000
 \$1,000

Violation Events

Number of Violation Events 2 365 Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty \$2,000

Two semiannual events are recommended, one for each semiannual period that benchmark monitoring was not conducted.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.
Violation Subtotal \$2,000

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount \$535 Violation Final Penalty Total \$2,460
 This violation Final Assessed Penalty (adjusted for limits) \$2,460

Economic Benefit Worksheet

Respondent SUNRISE MATERIALS, L.P.
Case ID No. 38832
Reg. Ent. Reference No. RN105445696
Media Water Quality
Violation No. 5

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed costs for this violation have been included with Violation No. 1.

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]	\$500	31-Dec-2008	30-Jun-2009	1.41	\$35	\$500	\$535
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct and document semiannual benchmark monitoring. Date required is the date the first benchmark monitoring was due. Final date is the date the last benchmark monitoring was due.

Approx. Cost of Compliance

\$500

TOTAL

\$535

Screening Date 11-Mar-2010 **Docket No.** 2009-2019-WQ-E **PCW**
Respondent SUNRISE MATERIALS, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 38832 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105445696
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Multi-Sector General Permit No. TXR05W051, Part III., Section A.3.(c)
Violation Description Failed to submit the non-storm water certification within 180 days of filing a Notice of Intent for permit coverage, as documented during an investigation conducted on September 29, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of permit the requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

1 164 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/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 \$14 **Violation Final Penalty Total** \$1,230

This violation Final Assessed Penalty (adjusted for limits) \$1,230

Economic Benefit Worksheet

Respondent SUNRISE MATERIALS, L.P.
Case ID No. 38832
Reg. Ent. Reference No. RN105445696
Media Water Quality
Violation No. 6

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)	\$100	26-Oct-2007	29-Jul-2010	2.76	\$14	n/a	\$14

Notes for DELAYED costs

Estimated cost to submit the non-storm water certification to the TCEQ. Date required is the date the certification was due. 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

\$100

TOTAL

\$14

Screening Date 11-Mar-2010 **Docket No.** 2009-2019-WQ-E **PCW**
Respondent SUNRISE MATERIALS, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 38832 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105445696
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 7
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Multi-Sector General Permit No. TXR05W051, Part III., Section C.1.(c)
Violation Description Failed to maintain a rain gauge on site, as documented during an investigation conducted on September 29, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			x	

>> 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 this violation.

Adjustment \$9,500

\$500

Violation Events

1 164 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 EDPRP/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 \$4 **Violation Final Penalty Total** \$615

This violation Final Assessed Penalty (adjusted for limits) \$615

Economic Benefit Worksheet

Respondent SUNRISE MATERIALS, L.P.
Case ID No. 38832
Reg. Ent. Reference No. RN105445696
Media Water Quality
Violation No. 7

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)	\$25	29-Apr-2007	7-Oct-2010	3.44	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to install and maintain a rain gauge at the Site. Date required is the date permit coverage began. 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

\$25

TOTAL

\$4

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603314816	SUNRISE MATERIALS, L.P.	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN105445696	SUNRISE MATERIALS	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	STORMWATER	PERMIT		TXR05W051
Location:	25963 SORTERS RD, PORTER, TX, 77365			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 29, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 29, 2005 to April 29, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Lanae Foard</u>	Phone:	<u>512-239-2554</u>	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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	05/12/2009	(741062)	
2	11/17/2009	(781469)	
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/11/2009 (741062)	CN603314816	
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
	MSGP, Part III, Section A PERMIT		
Description:	Failure to implement a Storm Water Pollution Prevention Plan (SWP3).		
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SUNRISE MATERIALS, L.P.;
RN105445696**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-2019-WQ-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding SUNRISE MATERIALS, L.P. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates a sand and gravel mining operation located at 25963 Sorters Road in Porter, Montgomery County, Texas (the "Site"). Respondent has discharged waste from the Site into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twelve thousand two hundred ninety-nine dollars (\$12,299.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred ninety-nine dollars (\$399.00) of the administrative penalty. The remaining amount of eleven thousand nine hundred dollars (\$11,900.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred forty dollars (\$340.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that on July 29, 2010, Respondent submitted the non-storm water certification for the Site (Allegation 1.f.).
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 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

1. During an investigation conducted on September 29, 2009, a TCEQ Houston Regional Office investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05W051, Part III., Sections A.5.(g) and (h), by failing to conduct quarterly visual monitoring and Site inspections for the last two quarters of 2008 and the first two quarters of 2009.
 - b. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.5.(f), by failing to conduct annual employee training during 2008.
 - c. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.7., by failing to conduct the annual comprehensive compliance Site evaluation during 2008.
 - d. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section D., by failing to conduct annual numeric effluent limitations monitoring during 2008.

- e. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part IV., Section C., by failing to conduct semiannual benchmark monitoring for the second half of 2008 and the first half of 2009.
 - f. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.3.(c), by failing to submit the non-storm water certification within 180 days of filing a Notice of Intent ("NOI") for permit coverage.
 - g. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section C.1.(c), by failing to maintain a rain gauge at the Site.
2. Respondent received notice of the violations on or about November 23, 2009.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SUNRISE MATERIALS, L.P., Docket No. 2009-2019-WQ-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. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Update operational procedures to ensure that requirements of the storm water pollution prevention plan ("SWP3") will be fulfilled in the future, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Parts III. and IV.;
 - ii. Begin conducting quarterly visual monitoring and Site inspections, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Sections A.5(g) and (h) (Allegation 1.a.);

- iii. Develop and implement an employee training and education program, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.5.(f) (Allegation 1.b.);
 - iv. Begin conducting the annual comprehensive compliance evaluations to assess the overall effectiveness of the SWP3 and modify as needed, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section A.7. (Allegation 1.c.);
 - v. Begin conducting annual numeric effluent limitations monitoring, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section D. (Allegation 1.d.);
 - vi. Begin conducting semiannual benchmark monitoring, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part IV., Section C. (Allegation 1.e.); and
 - vii. Install a rain gauge at the Site, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TPDES MSGP No. TXR05W051, Part III., Section C.1.(c) (Allegation 1.g.).
- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.vii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Steve Smith, Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic

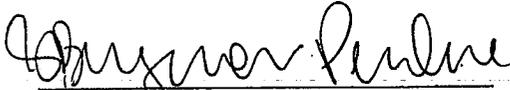
transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

1/31/2011

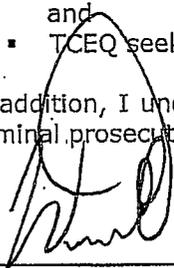
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of SUNRISE MATERIALS, L.P., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature

11-19-2010

Date

Rob Van Til

Name (Printed or typed)
Authorized representative of
SUNRISE MATERIALS, L.P.

Managing Partner

Title