EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1560-EAQ-E **TCEQ ID:** RN102769940 **CASE NO.:** 40434

RESPONDENT NAME: Custom Crushed Stone, Inc.

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	X EDWARDS AQUIFER	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Medina County Limestone Quarry, 9455 State Highway 211, Medina County

TYPE OF OPERATION: Crushed stone quarry

SMALL BUSINESS: ___ **Yes** X **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

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

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

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Zachary Tausch, Treasurer, Custom Crushed Stone, Inc., 8845 Leslie Road, San Antonio, Texas 78254
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine _X_ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** May 4, 2010 **Date of NOV/NOE Relating to this Case:** August 31, 2010 (NOE) **Background Facts:** This was an enforcement follow-up investigation. **WATER** 1) Failed to modify an existing Edwards Aquifer water pollution abatement plan ("WPAP") and obtain approval prior to initiating a regulated activity. Specifically, the existing WPAP, approved on June 1, 2000, was not modified prior to initiating a quarry expansion project that disturbed approximately 5.25 acres [30 TEX. ADMIN. CODE § 213.4(a)(1) and (j)(2) and WPAP 13-00040502 Standard Conditions No. 4]. 2) Failed to modify an approved aboveground storage tank ("AST") plan. Specifically, an 8,000 gallon tank was installed at the Site instead of the 10,000 gallon tank approved in the July 23, 2001 AST plan [30 TEX. ADMIN. CODE § 213.4(j)(6)]. 3) Failed to comply with any condition of an approved Edwards Aquifer protection plan. Specifically, the ASTs were not located within the containment structure as required by the AST plan approved on July 23, 2001 [30 TEX. ADMIN. CODE § 213.4(k)].	**Total Assessed:** $8,250 **Total Deferred:** $1,650 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $6,600 **Compliance History Classifications:** Person/CN - Average Site/RN - High **Major Source:** _X_ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site: a. All the ASTs were moved onto the containment structure and the 8,000 gallon AST was replaced with a 10,000 gallon AST as documented in a letter from the Respondent dated May 12, 2010 and received by the TCEQ San Antonio Regional Office on May 13, 2010; and b. A modified Edwards Aquifer WPAP was submitted to the TCEQ on February 2, 2010 and approved on July 19, 2010.

Additional ID No(s).: Edwards Aquifer Registration 13-00040502

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES **Assigned** 7-Sep-2010 **PCW** 22-Sep-2010 **Screening** 21-Sep-2010 **EPA Due**

RESPONDENT/FACILITY INFORMATION

Respondent Custom Crushed Stone, Inc.
Reg. Ent. Ref. No. RN102769940
Facility/Site Region 13-San Antonio **Major/Minor Source** Major

CASE INFORMATION

Enf./Case ID No. 40434
Docket No. 2010-1560-EAQ-E
Media Program(s) Edwards Aquifer
Multi-Media

No. of Violations 1
Order Type 1660
Government/Non-Profit No
Enf. Coordinator Thomas Jecha, P.G.
EC's Team Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 **Maximum** $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$7,500**

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 — *Subtotals 2, 3, & 7* **$0**

Notes: No adjustment for compliance history.

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* **$1,875**

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

Total EB Amounts $833
Approx. Cost of Compliance $60,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$5,625**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$5,625**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$5,625**

DEFERRAL **20.0%** Reduction — *Adjustment* **-$1,125**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$4,500**

Screening Date 21-Sep-2010 **Docket No.** 2010-1560-EAQ-E **PCW**

Respondent Custom Crushed Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40434

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102769940

Media [Statute] Edwards Aquifer

Enf. Coordinator Thomas Jecha, P.G.

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("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 for compliance history.

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

Screening Date 21-Sep-2010 **Docket No.** 2010-1560-EAQ-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent Custom Crushed Stone, Inc.

Case ID No. 40434

Reg. Ent. Reference No. RN102769940

Media [Statute] Edwards Aquifer

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) and (j)(2) and Water Pollution Abatement Plan ("WPAP") 13-00040502 Standard Conditions No. 4

Violation Description Failed to modify an existing Edwards Aquifer WPAP and obtain approval prior to initiating a regulated activity. Specifically, the existing WPAP, approved on June 1, 2000, was not modified prior to initiating a quarry expansion project that disturbed approximately 5.25 acres.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 3 — 76 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

Three monthly events are recommended from the May 4, 2010 investigation until approval of the modified WPAP on July 19, 2010.

Good Faith Efforts to Comply

25.0% Reduction — $1,875

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

Notes: The WPAP was approved on July 19, 2010.

Violation Subtotal $5,625

Economic Benefit (EB) for this violation

Estimated EB Amount $833

Statutory Limit Test

Violation Final Penalty Total $5,625

This violation Final Assessed Penalty (adjusted for limits) $5,625

Economic Benefit Worksheet

Respondent Custom Crushed Stone, Inc.
Case ID No. 40434
Reg. Ent. Reference No. RN102769940
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	$50,000	4-May-2010	19-Jul-2010	0.21	$35	$694	$729
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	$10,000	4-May-2010	19-Jul-2010	0.21	$104	n/a	$104
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated engineering cost to prepare a modified WPAP and submittal fee. The date required is the investigation date and the 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: $60,000

TOTAL $833

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES

Assigned	7-Sep-2010				
PCW	22-Sep-2010	**Screening**	21-Sep-2010	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	Custom Crushed Stone, Inc.		
Reg. Ent. Ref. No.	RN102769940		
Facility/Site Region	13-San Antonio	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40434	**No. of Violations**	2
Docket No.	2010-1560-EAQ-E	**Order Type**	1660
Media Program(s)	Edwards Aquifer	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: $3,500

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 — *Subtotals 2, 3, & 7*: $0

Notes: No adjustment for compliance history.

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*: $875

Economic Benefit 0.0% Enhancement* — *Subtotal 6*: $0

Total EB Amounts $1

Approx. Cost of Compliance $500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $2,625

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment*: $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: $2,625

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $2,625

DEFERRAL 20.0% Reduction — *Adjustment*: -$525

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: $2,100

Screening Date 21-Sep-2010 **Docket No.** 2010-1560-EAQ-E **PCW**

Respondent Custom Crushed Stone, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40434

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102769940

Media [Statute] Edwards Aquifer

Enf. Coordinator Thomas Jecha, P.G.

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("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 for compliance history.

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

Screening Date 21-Sep-2010 **Docket No.** 2010-1560-EAQ-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent Custom Crushed Stone, Inc.

Case ID No. 40434

Reg. Ent. Reference No. RN102769940

Media [Statute] Edwards Aquifer

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k)

Violation Description Failed to comply with any condition of an approved Edwards Aquifer protection plan. Specifically, aboveground storage tanks ("AST") were not located within the containment structure as required by the AST plan approved on July 23, 2001.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment could be exposed to pollutants which would exceed levels that are protective as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 1 — 9 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the May 4, 2010 investigation until the May 12, 2010 letter documenting compliance.

Good Faith Efforts to Comply

25.0% Reduction — $625

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

Notes: A letter dated May 12, 2010 documented that the ASTs were moved within the containment structure.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $1,875

This violation Final Assessed Penalty (adjusted for limits) $1,875

Economic Benefit Worksheet

Respondent Custom Crushed Stone, Inc.
Case ID No. 40434
Reg. Ent. Reference No. RN102769940
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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)	$200	4-May-2010	12-May-2010	0.02	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to move the ASTs onto the containment structure. The date required is the investigation date and the 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: $200

TOTAL: $0

Screening Date 21-Sep-2010 **Docket No.** 2010-1560-EAQ-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent Custom Crushed Stone, Inc.

Case ID No. 40434

Reg. Ent. Reference No. RN102769940

Media [Statute] Edwards Aquifer

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 213.4(j)(6)

Violation Description Failed to modify an approved AST plan. Specifically, an 8,000 gallon tank was installed at the Site instead of the 10,000 gallon tank approved in the July 23, 2001 AST plan.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1

9 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One monthly event is recommended from the May 4, 2010 investigation until the May 12, 2010 letter documenting compliance.

Good Faith Efforts to Comply

25.0% Reduction $250

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

Notes: A letter dated May 12, 2010 documented that the 8,000 gallon tank was removed and replaced with a 10,000 gallon tank.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $750

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

Economic Benefit Worksheet

Respondent Custom Crushed Stone, Inc.
Case ID No. 40434
Reg. Ent. Reference No. RN102769940
Media Edwards Aquifer
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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)	$300	4-May-2010	12-May-2010	0.02	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to move out the 8,000 gallon AST and move in a 10,000 gallon AST. The date required is the investigation date and the 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 $300

TOTAL $0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601597735	Custom Crushed Stone, Inc.	Classification: AVERAGE	Rating: 6.22
Regulated Entity:	RN102769940	MEDINA COUNTY LIMESTONE QUARRY	Classification: HIGH	Site Rating:0.00

ID Number(s):

EDWARDS AQUIFER	REGISTRATION	13-00040502
EDWARDS AQUIFER	REGISTRATION	13-01062001
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	76604
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	MJ0074C
AIR NEW SOURCE PERMITS	REGISTRATION	80732
WASTE WATER GENERAL PERMIT	PERMIT	TXG110695

Location: 9455 STATE HIGHWAY 211, MEDINA CO, TX, 78254

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: September 20, 2010

Agency Decision Requiring Compliance: Enforcement

Compliance Period: September 20, 2005 to September 20, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Jecha Phone: 239 - 2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes

3. If Yes, who is the current owner/operator?	OWN	CUSTOM CRUSHED STONE, INC.	
4. If Yes, who was/were the prior owner(s)/operator(s)?		OWN	Medina Quarry, LLC
		OWNOPR	Urban Concrete Contractors, Ltd.
5. When did the change(s) in owner or operator occur?	02/02/2006	OWNOPR	Urban Concrete Contractors, Ltd.
	03/12/2010	OWNOPR	Custom Crushed Stone, Inc.

Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, 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 09/25/2009 (748796)

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CUSTOM CRUSHED STONE, INC. RN102769940	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1560-EAQ-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 Custom Crushed Stone, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a crushed stone quarry at 9455 State Highway 211 in Medina County, Texas (the "Site").

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 5, 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 Eight Thousand Two Hundred Fifty Dollars ($8,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Six Hundred Dollars ($6,600)

of the administrative penalty and One Thousand Six Hundred Fifty Dollars ($1,650) 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 the Respondent has implemented the following corrective measures at the Site:

   a. All the aboveground storage tanks ("AST") were moved onto the containment structure and the 8,000 gallon AST was replaced with a 10,000 gallon AST as documented in a letter from the Respondent dated May 12, 2010 and received by the TCEQ San Antonio Regional Office on May 13, 2010; and

   b. A modified Edwards Aquifer water pollution abatement plan ("WPAP") was submitted to the TCEQ on February 2, 2010 and approved on July 19, 2010.

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 Site, the Respondent is alleged to have:

1. Failed to modify an existing Edwards Aquifer WPAP and obtain approval prior to initiating a regulated activity, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1) and (j)(2) and Water Pollution Abatement Plan ("WPAP") 13-00040502 Standard Conditions No. 4, as documented during an investigation conducted on May 4, 2010. Specifically, the existing WPAP, approved on June 1, 2000, was not modified prior to initiating a quarry expansion project that disturbed approximately 5.25 acres.

2. Failed to modify an approved AST plan, in violation of 30 TEX. ADMIN. CODE § 213.4(j)(6), as documented during an investigation conducted on May 4, 2010. Specifically, an 8,000 gallon tank was installed at the Site instead of the 10,000 gallon tank approved in the July 23, 2001 AST plan.

3. Failed to comply with any condition of an approved Edwards Aquifer protection plan, in violation of 30 TEX. ADMIN. CODE § 213.4(k), as documented during an investigation conducted on May 4, 2010. Specifically, the ASTs were not located within the containment structure as required by the AST plan approved on July 23, 2001.

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: Custom Crushed Stone, Inc., Docket No. 2010-1560-EAQ-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 Site operations referenced in this Agreed Order.

3. 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.

4. 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.

5. 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

_____ 2/14/2011
For the Executive Director 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.

_____ 12-17-10
Signature Date

Lloyd Tausch Treasurer
Name (Printed or typed) Title
Authorized Representative of
Custom Crushed Stone, Inc.

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.