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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1613-AIR-E **TCEQ ID:** RN100218080 **CASE NO.:** 40480
RESPONDENT NAME: American Marazzi Tile, 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: American Marazzi Tile Sunnyvale Facility, 359 Clay Road, Sunnyvale, Dallas County</p> <p>TYPE OF OPERATION: Ceramic tile manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 14, 2011. 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. David Carlile, Vice President of Finance, American Marazzi Tile, Inc., 359 Clay Road, Sunnyvale, Texas 75182 Mr. Steven Wiederwax, Environmental Manager, American Marazzi Tile, Inc., 359 Clay Road, Sunnyvale, Texas 75182 Respondent's Attorney: Mr. Howard L. Gilberg, Guida, Slavich & Flores, P.C., 750 North St. Paul, Suite 200, Dallas, Texas 75201-3205</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 25, 2010</p> <p>Date of NOV/NOE Relating to this Case: September 1, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>AIR</p> <p>Failed to comply with the maximum allowable emission rates ("MAERs") for the Kiln A Pre-Dryer Stack [Emission Point No. ("EPN") KD-A] and Kiln A Layer 1 and 2 Stacks (EPNs KS-A1 and KS-A2, respectively) based on stack tests conducted on October 27, 2008. Specifically, the MAERs for particulate matter, carbon monoxide ("CO"), volatile organic compounds ("VOC"), and sulfur dioxide ("SO₂") were exceeded resulting in the unauthorized release of 4.39 tons of particulate matter, 36.18 tons of CO, 21.56 tons of VOC, and 33.31 tons of SO₂ from October 27, 2008 through February 10, 2010 [30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and 116.115(c), Permit No. 19841 Special Conditions 1, and TEX. HEALTH & SAFETY Code § 382.085(b)].</p>	<p>Total Assessed: \$16,350</p> <p>Total Deferred: \$3,270 <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: \$13,080</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 10, 2010, the Respondent amended Permit No. 19841 to increase the MAERs for particulate matter, CO, VOC, and SO₂.</p>

Additional ID No(s): Air Account DB1073N



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Sep-2010	Screening	28-Sep-2010	EPA Due	28-May-2011
	PCW	28-Sep-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	American Marazzi Tile, Inc.
Reg. Ent. Ref. No.	RN100218080
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40480	No. of Violations	1
Docket No.	2010-1613-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** **\$45,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **9.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,050**

Notes: Enhancement for one same/similar NOV and three dissimilar NOVs.
Reduction for two notices of intended audit.

Culpability **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$11,250**

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

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$37,800**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-56.7%** **Adjustment** **-\$21,450**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction due to delay of enforcement from the time of the stack test (October 27, 2008) to referral date (September 1, 2010).

Final Penalty Amount **\$16,350**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$16,350**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$3,270**

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 **\$13,080**

Screening Date 28-Sep-2010

Docket No. 2010-1613-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40480

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

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 notices of violation ("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	3	6%
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>)	2	-2%
	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) 9%

>> **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

Enhancement for one same/similar NOV and three dissimilar NOVs. Reduction for two notices of intended audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 9%

Screening Date 28-Sep-2010

Docket No. 2010-1613-AIR-E

PCW

Respondent American Marazzi Tile, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40480

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218080

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(F) and 116.115(c), Permit No. 19841 Special Conditions 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the hourly maximum allowable emissions rates ("MAERs") for the Kiln A Pre-Dryer Stack [Emission Point No. ("EPN") KD-A] and Kiln A Layer 1 and 2 Stacks (EPNs KS-A1 and KS-A2, respectively) based on stack tests conducted on October 27, 2008. Specifically, the MAERs for particulate matter, carbon monoxide ("CO"), volatile organic compounds ("VOC"), and sulfur dioxide ("SO2") were exceeded from October 27, 2008 through February 10, 2010, resulting in the unauthorized release of 4.39 tons of particulate matter, 36.18 tons of CO, 21.56 tons of VOC, and 33.31 tons of SO2. See Attachment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment has been exposed to insignificant emissions which do not 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 18 Number of violation days 1416

Table for event frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$45,000

Six quarterly events are recommended per EPN, resulting in a total of 18 events, from the date of the stack tests (October 27, 2008) to the compliance date (February 10, 2010).

Good Faith Efforts to Comply

25.0% Reduction \$11,250

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes The Respondent came into compliance on February 10, 2010, and the NOE was issued on September 1, 2010.

Violation Subtotal \$33,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$323

Violation Final Penalty Total \$16,350

This violation Final Assessed Penalty (adjusted for limits) \$16,350

Economic Benefit Worksheet

Respondent American Marazzi Tile, Inc.
Case ID No. 40480
Reg. Ent. Reference No. RN100218080
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	27-Oct-2008	10-Feb-2010	1.29	\$323	n/a	\$323
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for obtaining a permit amendment from the first documented violation date (stack testing date) to the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$323

Attachment to Penalty Calculation Worksheet
 American Marazzi Tile, Inc.
 RN100218080
 Case No. 40480
 Docket No. 2010-1613-AIR-E

EPN	Particulate Matter*		CO*		VOC*		SO ₂ *	
	Actual	MAER	Actual	MAER	Actual	MAER	Actual	MAER
KD-A	0.08	0.02	3.13	0.02	2.73	0.01		
KS-A1**	1.18	0.38	4.13	0.32	0.59	0.27	13.18	1.31
KS-A2**	1.18	0.38	4.13	0.32	0.59	0.27	13.18	1.31

*Emissions are in pounds per hour

**Only KS-A1 was actually tested. KS-A1 and KS-A2 are identical units, and the emission rates in the permit are based on the stack test for KS-A1.

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600129522 American Marazzi Tile, Inc.	Classification: AVERAGE	Rating: 2.29
Regulated Entity:	RN100218080 AMERICAN MARAZZI TILE SUNNYVALE FACILITY	Classification: AVERAGE	Site Rating: 0.85
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	DB1073N
	AIR OPERATING PERMITS	PERMIT	1147
	AIR NEW SOURCE PERMITS	PERMIT	19841
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DB1073N
	AIR NEW SOURCE PERMITS	AFS NUM	4811300737
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD039718796
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	33665
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	33665
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	DB1073N
Location:	359 CLAY RD, SUNNYVALE, TX, 75182		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 27, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 27, 2005 to September 27, 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: 9/1/2010 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	04/18/2006	(460343)
2	05/02/2006	(463239)
3	06/08/2006	(466435)
4	09/13/2006	(510003)
5	12/27/2006	(534809)
6	08/29/2007	(557782)
7	07/29/2008	(683034)
8	11/20/2008	(707438)
9	03/10/2009	(737299)
10	05/29/2009	(746359)
11	08/03/2009	(763229)
12	10/06/2009	(777173)

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

Date: 04/18/2006 (460343)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to notify the TCEQ within 24 hours of a reportable emissions event that occurred on 02/25/06.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to submit the emissions event notifications using STEERS.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 No. 19841, Condition 1 PERMIT
 Description: Failure to comply with particulate matter hourly permit emission limit of 0.05 pounds.

Date: 08/30/2007 (557782)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to submit permit compliance certification in a timely manner.

Date: 07/31/2008 (683034)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Permit No. 19841, Special Condition 17 PERMIT
 Description: Failure to physically identify and mark in a conspicuous location all equipment that has the potential of emitting air contaminants, as required by special condition 17 of Permit No. 19841.

Date: 09/01/2010 (824614) CN600129522
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Special Condition No. 7 PERMIT
 Description: Failure to comply with the requirements of 30 TAC 116.115(c) and Permit No. 19841 Special Condition No. 7, by exceeding the hourly throughput rate for EPNs KS-A1, KS-A2, and KD-A.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.221(a)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to comply with the requirements of 30 TAC 101.221(a), by failing to install the control panel for the dust collectors at units CIN BP-2D and CIN P2-CSA prior to the time of startup of new facilities.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.20
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT OOO 60.672(e)(1)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to comply with the requirements of 30 TAC 60.672(e)(1), by failing to maintain the control device for affected facilities operational.

F. Environmental audits.

Notice of Intent Date: 06/08/2007 (565545)
 No DOV Associated
 Notice of Intent Date: 05/13/2010 (825658)
 No DOV Associated

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
AMERICAN MARAZZI TILE, INC.
RN100218080**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1613-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 American Marazzi Tile, 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, represented by Howard L. Gilberg of the law firm of Guida, Slavich & Flores, P.C., appear before the Commission and together stipulate that:

1. The Respondent owns and operates a ceramic tile manufacturing plant at 359 Clay Road in Sunnyvale, Dallas 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 September 6, 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 Sixteen Thousand Three Hundred Fifty Dollars (\$16,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirteen Thousand Eighty Dollars (\$13,080) of the administrative penalty and Three Thousand Two Hundred Seventy Dollars (\$3,270) 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 February 10, 2010, the Respondent amended Permit No. 19841 to increase the maximum allowable emission rates ("MAERs") for particulate matter, carbon monoxide ("CO"), volatile organic compounds ("VOC"), and sulfur dioxide ("SO₂").
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 failed to comply with the MAERs for the Kiln A Pre-Dryer Stack [Emission Point No. ("EPN") KD-A] and Kiln A Layer 1 and 2 Stacks (EPNs KS-A1 and KS-A2, respectively) based on stack tests conducted on October 27, 2008, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and 116.115(c), Permit No. 19841 Special Conditions 1, and TEX. HEALTH & SAFETY Code § 382.085(b), as documented during a record review conducted on May 25, 2010. Specifically, the MAERs for particulate matter, CO, VOC, and SO₂ were exceeded as shown below, resulting in the unauthorized release of 4.39 tons of particulate matter, 36.18 tons of CO, 21.56 tons of VOC, and 33.31 tons of SO₂ from October 27, 2008 through February 10, 2010:

EPN	Particulate Matter *		CO*		VOC*		SO ₂ *	
	Actual	MAER	Actual	MAER	Actual	MAER	Actual	MAER
KD-A	0.08	0.02	3.13	0.02	2.73	0.01		
KS-A1**	1.18	0.38	4.13	0.32	0.59	0.27	13.18	1.31
KS-A2**	1.18	0.38	4.13	0.32	0.59	0.27	13.18	1.31

*Emissions are in pounds per hour
 **Only KS-A1 was actually tested. KS-A1 and KS-A2 are identical units, and the emission rates in the permit are based on the stack test for KS-A1.

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: American Marazzi Tile, Inc., Docket No. 2010-1613-AIR-E" to:

Financial Administration Division, Revenues Section
 Attention: Cashier's Office, MC 214
 Texas Commission on Environmental Quality
 P.O. Box 13088
 Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. 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.

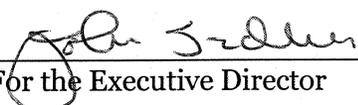
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

OFFICE OF STATE COMPTROLLER
TCEQ
111900 §-42

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

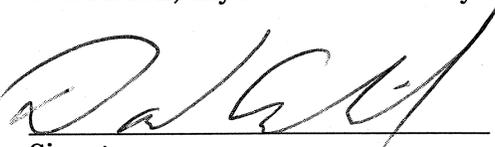
2/14/2011
Date

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.



Signature

1-3-11
Date

David Carlisle
Name (Printed or typed)
Authorized Representative of
American Marazzi Tile, Inc.

Vice President Finance
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.