EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1757-AIR-E **TCEQ ID:** RN106029689 and RN105802227 **CASE NO.:** 40607

RESPONDENT NAME: Tristar Aggregates 1, LLC

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:		
X 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	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Finley Jaw Crusher, and CEC Impact Crusher, 1119 County Road 203, Wilson County

TYPE OF OPERATION: Rock crushers

SMALL BUSINESS: _X_ **Yes** ___ **No**

OTHER SIGNIFICANT MATTERS: A complaint was received on August 10, 2010 alleging nuisance dust. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 9, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Daniel Corrigan, President, Tristar Aggregates 1, LLC, 132 Nell Deane Boulevard, Schertz, Texas 78154-1500
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: _X_ Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** August 10, 2010 **Date of Investigation Relating to this Case:** August 18, 2010 **Date of NOV/NOE Relating to this Case:** October 1, 2010 (NOE) **Background Facts:** This was a complaint investigation. **AIR** 1) Failed to maintain records of hours and days of operation, run times, model numbers, and serial numbers for the Finley Jaw Crusher and the CEC Impact Crusher. Specifically, during the investigation, these records were not available. Subsequent to the investigation, hours of operation, run times, model numbers, and serial numbers were provided for the crushers, but the number of operating days was not [30 TEX. ADMIN. CODE § 116.615(8), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (1)(M) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to limit rock crushing activities to 180 non-consecutive calendar days. Specifically, the 180-day operating limit ended on April 12, 2010, but the CEC Impact Crusher did not cease operating until September 22, 2010 [30 TEX. ADMIN. CODE §§ 116.115(b) and 116.615(2), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (3)(E) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 3) Failed to remove the CEC Impact Crusher from the Site within 24 hours after reaching the authorized operating limit of 180 days. Specifically, the 180-day operating limit ended on April 12,	**Total Assessed:** $6,500 **Total Deferred:** $1,300 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $5,200 **Compliance History Classifications:** Person/CN - Average Site/RN106029689 – N/A RN105802227 - Average **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent ceased operating the CEC Impact Crusher at the Site on September 22, 2010. **Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, remove the CEC Impact Crusher from the Site and implement procedures to ensure temporary rock and concrete crushers are removed from the site within 24 hours of ceasing operation or reaching operating limits; b. Within 30 days after the effective date of this Agreed Order, implement record keeping procedures to ensure that all records are created and maintained on site and available for review by TCEQ staff; and c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.

2010, but the crusher has not been removed from the Site [30 TEX. ADMIN. CODE §§ 116.115(b) and 116.615(2), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (3)(E) and TEX. HEALTH & SAFETY CODE § 382.085(b)].		

Additional ID No(s).: N/A

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES

Assigned	11-Oct-2010				
PCW	10-Feb-2011	**Screening**	26-Oct-2010	**EPA Due**	N/A

RESPONDENT/FACILITY INFORMATION

Respondent	Tristar Aggregates 1, LLC (Finley Jaw Crusher)		
Reg. Ent. Ref. No.	RN105802227		
Facility/Site Region	13-San Antonio	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40607	**No. of Violations**	1
Docket No.	2010-1757-AIR-E	**Order Type**	1660
Media Program(s)	Air	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Trina Grieco
		EC's Team	Enforcement Team 5

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

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **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*** **$0**

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

Total EB Amounts $80
Approx. Cost of Compliance $1,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$1,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$1,000**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$1,000**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$200**

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 **$800**

Screening Date 26-Oct-2010 **Docket No.** 2010-1757-AIR-E **PCW**

Respondent Tristar Aggregates 1, LLC (Finley Jaw Crusher)

Policy Revision 2 (September 2002)

Case ID No. 40607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105802227

Media [Statute] Air

Enf. Coordinator Trina Grieco

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 26-Oct-2010 **Docket No.** 2010-1757-AIR-E **PCW**

Respondent Tristar Aggregates 1, LLC (Finley Jaw Crusher)

Policy Revision 2 (September 2002)

Case ID No. 40607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105802227

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.615(8), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (1)(M) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records of hours and days of operation, run times, model number, and serial number for the Finley Jaw Crusher. Specifically, during the investigation, these records were not available. Subsequent to the investigation, hours of operation, run times, model number, and serial number were provided for the crusher, but the number of operating days was not.

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

69 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	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.

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $80

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Tristar Aggregates 1, LLC (Finley Jaw Crusher)
Case ID No. 40607
Reg. Ent. Reference No. RN105802227
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	$1,500	18-Aug-2010	10-Sep-2011	1.06	$80	n/a	$80
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 implement record keeping procedures to ensure that all required records are created and maintained on site for review by TCEQ staff. The date required is the date of the investigation and the final date is the estimated date of compliance.

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,500

TOTAL $80

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603534140	Tristar Aggregates 1, LLC	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105802227	FINLEY JAW CRUSHER 1175	Classification: AVERAGE	Site Rating: 3.01
ID Number(s):		FNC FNC550084		

Location: 6921 HWY 59 E, BEE COUNTY, TX

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: October 18, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 18, 2005 to October 18, 2010

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

Name: Trina Grieco Phone: (210) 403-4006

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: 9/1/2010 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.)

N/A

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	11-Oct-2010				
PCW	19-Jan-2011	Screening	26-Oct-2010	EPA Due	N/A

RESPONDENT/FACILITY INFORMATION

Respondent	Tristar Aggregates 1, LLC (CEC Impact Crusher)		
Reg. Ent. Ref. No.	RN106029689		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40607	No. of Violations	3
Docket No.	2010-1757-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Trina Grieco
		EC's Team	Enforcement Team 5

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

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $6,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement *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* $500

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

Total EB Amounts $84
Approx. Cost of Compliance $1,850

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $5,500

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $5,500

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $5,500

DEFERRAL 20.0% Reduction *Adjustment* -$1,100

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 $4,400

Screening Date 26-Oct-2010 **Docket No.** 2010-1757-AIR-E **PCW**

Respondent Tristar Aggregates 1, LLC (CEC Impact Crusher)

Policy Revision 2 (September 2002)

Case ID No. 40607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106029689

Media [Statute] Air

Enf. Coordinator Trina Grieco

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 26-Oct-2010 **Docket No.** 2010-1757-AIR-E **PCW**

Respondent Tristar Aggregates 1, LLC (CEC Impact Crusher)

Policy Revision 2 (September 2002)

Case ID No. 40607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106029689

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b) and 116.615(2), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (3)(E) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to limit rock crushing activities to 180 non-consecutive calendar days. Specifically, the 180-day operating limit ended on April 12, 2010, but the CEC Impact Crusher did not cease operating until September 22, 2010.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment was exposed to insignificant amounts of contaminants that did not exceed protective levels as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 2

162 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two quarterly events are recommended from the date the crusher should have ceased operating (April 13, 2010) to the date the crusher did cease operating (September 22, 2010).

Good Faith Efforts to Comply

25.0% Reduction $500

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

Notes: The Respondent completed corrective actions on September 22, 2010 (prior to the October 1, 2010 NOE).

Violation Subtotal $1,500

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $1,500

This violation Final Assessed Penalty (adjusted for limits) $1,500

Economic Benefit Worksheet

Respondent Tristar Aggregates 1, LLC (CEC Impact Crusher)
Case ID No. 40607
Reg. Ent. Reference No. RN106029689
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				0.00	$0	n/a	$0
Other (as needed)	$100	13-Apr-2010	22-Sep-2010	0.44	$2	n/a	$2

Notes for DELAYED costs Estimated cost to implement measures to ensure compliance with operational limits. The date required is the date the rock crusher should have ceased operating and the final date is the date the rock crusher did cease operating.

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 $2

Screening Date 26-Oct-2010 **Docket No.** 2010-1757-AIR-E **PCW**

Respondent Tristar Aggregates 1, LLC (CEC Impact Crusher) *Policy Revision 2 (September 2002)*

Case ID No. 40607 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN106029689

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.615(8), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (1)(M)and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records of hours and days of operation, run times, model number, and serial number for the CEC Impact Crusher. Specifically, during the investigation, these records were not available. Subsequent to the investigation, hours of operation, run times, model number, and serial number were provided for the crusher, but the number of operating days was not.

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 69 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	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.

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $80

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Tristar Aggregates 1, LLC (CEC Impact Crusher)
Case ID No. 40607
Reg. Ent. Reference No. RN106029689
Media Air
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	$1,500	18-Aug-2010	10-Sep-2011	1.06	$80	n/a	$80
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 implement record keeping procedures to ensure that all required records are created and maintained on site for review by TCEQ staff. The date required is the date of the investigation and the final date is the estimated date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance $1,500

TOTAL $80

Screening Date 26-Oct-2010 **Docket No.** 2010-1757-AIR-E **PCW**

Respondent Tristar Aggregates 1, LLC (CEC Impact Crusher)

Policy Revision 2 (September 2002)

Case ID No. 40607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106029689

Media [Statute] Air

Enf. Coordinator Trina Grieco

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b) and 116.615(2), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (3)(E) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to remove the CEC Impact Crusher from the Site within 24 hours after reaching the authorized operating limit of 180 days. Specifically, the 180-day operating limit ended on April 12, 2010, but the crusher has not been removed from the Site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm: Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment could have been exposed to significant amounts of contaminants that would not have exceeded protective levels as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 3

196 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three quarterly events are recommended from the date the crusher was required to be removed from the Site (April 13, 2010) to the screening date (October 26, 2010).

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 $3,000

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $3,000

This violation Final Assessed Penalty (adjusted for limits) $3,000

Economic Benefit Worksheet

Respondent Tristar Aggregates 1, LLC (CEC Impact Crusher)
Case ID No. 40607
Reg. Ent. Reference No. RN106029689
Media Air
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)	$250	13-Apr-2011	1-Jun-2011	0.13	$2	n/a	$2

Notes for DELAYED costs: Estimated cost to remove the crusher from the Site. The date required is the date the crusher was required to be removed and the final date is the date corrective actions are projected to be completed.

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 $250

TOTAL $2

Compliance History

Customer/Respondent/Owner-Operator: CN603534140 Tristar Aggregates 1, LLC Classification: AVERAGE Rating: 3.01

Regulated Entity: RN106029689 CEC IMPACT CRUSHER Classification: N/A Site Rating: N/A

ID Number(s): AIR QUALITY NON PERMITTED ID NUMBER ENF106029689

Location: PORTABLE
1119 CR 203 WILSON COUNTY TX

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: October 18, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 18, 2005 to October 18, 2010

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

Name: Trina Grieco Phone: (210) 403-4006

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. N/A

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.)
N/A

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

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
TRISTAR AGGREGATES 1, LLC	**§**	
RN105802227 and RN106029689	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1757-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 Tristar Aggregates 1, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operated two rock crushers (the "Finley Jaw Crusher" and the "CEC Impact Crusher") at 1119 County Road 203 in Wilson County, Texas (the "Site").

2. The Site 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 October 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 Six Thousand Five Hundred Dollars ($6,500) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Five Thousand Two Hundred Dollars ($5,200) of the administrative penalty and One Thousand Three Hundred Dollars ($1,300) 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 ceased operating the CEC Impact Crusher at the Site on September 22, 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 maintain records of hours and days of operation, run times, model numbers, and serial numbers for the Finley Jaw Crusher and the CEC Impact Crusher, in violation of 30 TEX. ADMIN. CODE § 116.615(8), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (1)(M) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 18, 2010. Specifically, during the investigation, these records were not available. Subsequent to the investigation, hours of operation, run times, model numbers, and serial numbers were provided for the crushers, but the number of operating days was not.

2. Failed to limit rock crushing activities to 180 non-consecutive calendar days, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and 116.615(2), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (3)(E) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August

18, 2010. Specifically, the 180-day operating limit ended on April 12, 2010, but the CEC Impact Crusher did not cease operating until September 22, 2010.

3. Failed to remove the CEC Impact Crusher from the Site within 24 hours after reaching the authorized operating limit of 180 days, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b) and 116.615(2), Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Condition (3)(E) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 18, 2010. Specifically, the 180-day operating limit ended on April 12, 2010, but the crusher has not been removed from the Site.

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: Tristar Aggregates 1, LLC, Docket No. 2010-1757-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, remove the CEC Impact Crusher from the Site and implement procedures to ensure temporary rock and concrete crushers are removed from the site within 24 hours of ceasing operation or reaching operating limits;

   b. Within 30 days after the effective date of this Agreed Order, implement record keeping procedures to ensure that all records are created and maintained on site and available for review by TCEQ staff; and

c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in 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.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 5/20/2011
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.

_____ President 103.07.11
Signature Date

Daniel Corrigan President
Name (Printed or typed) Title
Authorized Representative of
Tristar Aggregates 1, LLC

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.