

Ash Grove Texas, L.P.

RN100225978

Docket No. 2010-1402-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

900 Gifco Road, Midlothian, Ellis County

Type of Operation:

cement manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: December 9, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,975

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$10,975

Total Due to General Revenue: \$0

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average

Site/RN – Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 17, 2010
Date(s) of NOV(s): See Compliance History – Five related NOVs
Date(s) of NOE(s): July 28, 2010

Violation Information

1. Failed to timely submit the PCC within 30 days of the end of the certification period [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 122.146(2)].
2. Failed to timely submit the semi-annual start-up, shutdown, and malfunction report within 30 days after the end of the calendar half [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE §§ 101.20(2) and 113.690, and 40 C.F.R. § 63.10(d)(5)(i)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 30 days, implement improvements to reporting practices that address the late submittal of the October 13, 2008 through October 12, 2009 PCC and that are designed to prevent recurrence of same or similar incidents; and
2. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: January 28, 2011
Date Answer(s) Filed: February 15, 2011
SOAH Referral Date: March 25, 2011
Hearing Date(s):
Preliminary hearing: May 5, 2011
Evidentiary hearing: December 8, 2011 (remanded)
Settlement Date: November 29, 2011

Contact Information

TCEQ Attorneys: Anna M. Treadwell, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: James Nolan, Air Enforcement Section, (512) 239- 6634

TCEQ Regional Contact: Alyssa Taylor, Dallas/Fort Worth Regional Office, (817) 588-5828

Respondent: Michael Crittenden, Environmental Manager, Ash Grove Texas, L.P., 900 Gifco Road, Midlothian, Texas 76065

Respondent's Attorney: Eric Groten, Partner, Vinson & Elkins L.L.P., The Terrace 7, 2801 Via Fortuna, Suite 100, Austin, Texas 78746



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Aug-2010	Screening	12-Aug-2010	EPA Due	23-Apr-2011
	PCW	16-Dec-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Ash Grove Texas, L.P.		
Reg. Ent. Ref. No.	RN100225978		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40286	No. of Violations	2
Docket No.	2010-1402-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Todd Huddleson
		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	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	132.0% Enhancement	Subtotals 2, 3, & 7	\$6,600
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Notes	Enhancement for five same/similar NOVs and 31 dissimilar NOVs, one agreed order with denial and one agreed order without denial.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$17	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,975
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$10,975
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,975
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only: e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$10,975
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Screening Date 12-Aug-2010

Docket No. 2010-1402-AIR-E

PCW

Respondent Ash Grove Texas, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40286

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100225978

Media [Statute] Air

Enf. Coordinator Todd Huddleson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	31	62%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 132%

>> 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 five same/similar NOVs and 31 dissimilar NOVs, one agreed order with denial and one agreed order without denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 132%

Screening Date 12-Aug-2010 **Docket No.** 2010-1402-AIR-E **PCW**
Respondent Ash Grove Texas, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 40286 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100225978
Media [Statute] Air
Enf. Coordinator Todd Huddleson

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR			Harm			
	Release	Major	Moderate	Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>				<input type="text" value="25%"/>

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Ash Grove Texas, L.P.
Case ID No. 40286
Reg. Ent. Reference No. RN100225978
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Nettime Cost	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	\$250	11-Nov-2009	1-Feb-2011	1.22	\$15	n/a	\$15
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 for preparation and submittal of a PCC. The Date Required is the date the report was due 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

\$250

TOTAL

\$15

Screening Date 12-Aug-2010 **Docket No.** 2010-1402-AIR-E **PCW**
Respondent Ash Grove Texas, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 40286 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100225978
Media [Statute] Air
Enf. Coordinator Todd Huddleson

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(2) and 113.690, 40 Code of Federal Regulations § 63.10(d)(5)(i), and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to timely submit the semi-annual start-up, shutdown, and malfunction report within 30 days after the end of the calendar half, as documented during a record review conducted on June 17, 2010. Specifically the report for the period July 1, 2008 to December 31, 2008 was due no later than January 30, 2009, and was submitted 49 days late.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					
Adjustment					\$7,500

\$2,500

Violation Events

Number of Violation Events: 1 49 Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event

Violation Base Penalty \$2,500

One single event is recommended.

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	The Respondent returned to compliance on March 20, 2009 and the NOE is dated July 28, 2010.	
Violation Subtotal		
\$1,875		

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$5,175
This violation Final Assessed Penalty (adjusted for limits) \$5,175

Economic Benefit Worksheet

Respondent Ash Grove Texas, L.P.
Case ID No. 40286
Reg. Ent. Reference No. RN100225978
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	\$250	30-Jan-2009	20-Mar-2009	0.13	\$2	n/a	\$2
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 for preparation and submittal of a semi-annual report. The Date Required is the date the report was due 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

\$250

TOTAL

\$2

Compliance History Report

Customer/Respondent/Owner-Operator: CN600132161 Ash Grove Texas, L.P. Classification: AVERAGE Rating: 2.64
 Regulated Entity: RN100225978 ASH GROVE TEXAS LP Classification: AVERAGE Site Rating: 1.20

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD007926496
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	32941
	AIR OPERATING PERMITS	ACCOUNT NUMBER	ED00340
	AIR OPERATING PERMITS	PERMIT	1054
	WASTEWATER	PERMIT	WQ0002427000
	WASTEWATER	EPA ID	TX0083437
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	11627
	AIR NEW SOURCE PERMITS	PERMIT	16731
	AIR NEW SOURCE PERMITS	PERMIT	1
	AIR NEW SOURCE PERMITS	PERMIT	6230
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	ED00340
	AIR NEW SOURCE PERMITS	REGISTRATION	76379
	AIR NEW SOURCE PERMITS	AFS NUM	4813900002
	AIR NEW SOURCE PERMITS	REGISTRATION	71845
	AIR NEW SOURCE PERMITS	REGISTRATION	74145
	AIR NEW SOURCE PERMITS	REGISTRATION	74149
	AIR NEW SOURCE PERMITS	REGISTRATION	76414
	AIR NEW SOURCE PERMITS	REGISTRATION	30262
	AIR NEW SOURCE PERMITS	REGISTRATION	30263
	AIR NEW SOURCE PERMITS	REGISTRATION	30264
	AIR NEW SOURCE PERMITS	REGISTRATION	30265
	AIR NEW SOURCE PERMITS	REGISTRATION	34329
	AIR NEW SOURCE PERMITS	REGISTRATION	80048
	AIR NEW SOURCE PERMITS	REGISTRATION	90808
	AIR NEW SOURCE PERMITS	REGISTRATION	82608
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0700075
	TIRES	REGISTRATION	76905
	WATER LICENSING	LICENSE	0700075
	TIRES	REGISTRATION	26858
	STORMWATER	PERMIT	TXR05U036
	WASTEWATER LICENSING	LICENSE	WQ0002427000
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	ED00340

Location: 900 GIFCO RD, MIDLOTHIAN, TX, 76065
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: August 25, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: August 11, 2005 to August 11, 2010

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

Name: Todd Huddleson Phone: 239 - 2541

Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
- If Yes, who is the current owner/operator?

OWNOPR	Ash Grove Texas, L.P.
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- If Yes, who was/were the prior owner(s)/operator(s)?

OWN	Ash Grove Texas, L.P.
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- When did the change(s) in owner or operator occur? 11/01/2008

OWN	Ash Grove Texas, L.P.
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- Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site:

- Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 10/23/2008**ADMINORDER 2008-0407-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)
 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THSC Chapter 382 382.085(b)

Description: Failed to submit the required annual **compliance certification** for the period of October 13, 2006 through October 12, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 30 TAC Chapter 122, SubChapter B 122.145(2)(B)
 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 30 TAC Chapter 122, SubChapter B 122.146(1)
 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THSC Chapter 382 382.085(b)

Description: Failed to timely submit the required deviation report for the period of October 13, 2006 through April 12, 2007 and to submit the required deviation report for the period of April 13, 2007 through October 12, 2007.

Effective Date: 11/13/2009**ADMINORDER 2009-0501-AIR-E**

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(B)
 5C THSC Chapter 382 382.085(b)

Description: Failed to submit a semi-annual deviation report within 30 days of the end of the certification period. Specifically, the Respondent did not submit the semi-annual deviation report for the November 8, 2007 - April 10, 2008 reporting period.

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	08/18/2005	(404674)
2	08/18/2005	(404883)
3	08/24/2005	(405031)
4	08/25/2005	(445260)
5	09/16/2005	(399589)
6	09/16/2005	(400772)
7	09/22/2005	(445261)
8	10/12/2005	(406926)
9	10/12/2005	(418898)
10	10/12/2005	(418970)
11	10/25/2005	(433725)
12	10/26/2005	(476506)
13	10/28/2005	(400866)
14	10/28/2005	(435395)
15	11/07/2005	(433356)
16	11/07/2005	(433448)
17	11/14/2005	(435849)
18	11/18/2005	(437531)
19	11/21/2005	(476507)
20	11/29/2005	(434193)
21	12/01/2005	(436882)
22	12/22/2005	(476508)
23	12/28/2005	(439609)
24	12/28/2005	(439654)
25	01/04/2006	(449853)
26	01/05/2006	(438412)
27	01/18/2006	(476509)
28	02/01/2006	(451169)
29	02/24/2006	(476504)
30	03/02/2006	(455076)

31	03/02/2006	(456090)
32	03/22/2006	(476505)
33	03/30/2006	(459052)
34	04/05/2006	(461494)
35	04/06/2006	(457998)
36	04/06/2006	(458121)
37	04/10/2006	(503519)
38	04/20/2006	(461595)
39	04/26/2006	(462429)
40	04/26/2006	(462460)
41	04/26/2006	(462521)
42	05/02/2006	(462728)
43	05/10/2006	(465326)
44	05/10/2006	(465537)
45	05/10/2006	(465554)
46	05/15/2006	(503520)
47	05/25/2006	(464297)
48	06/07/2006	(503521)
49	07/05/2006	(525877)
50	07/21/2006	(479921)
51	07/21/2006	(479990)
52	07/21/2006	(480132)
53	07/21/2006	(480232)
54	07/21/2006	(480982)
55	07/26/2006	(484198)
56	07/27/2006	(480295)
57	08/18/2006	(525878)
58	09/20/2006	(509354)
59	09/20/2006	(510555)
60	09/20/2006	(510754)
61	09/25/2006	(525879)
62	09/26/2006	(488417)
63	10/10/2006	(512745)
64	10/10/2006	(514923)
65	10/11/2006	(512772)
66	10/12/2006	(513526)
67	10/19/2006	(513536)
68	10/19/2006	(513714)
69	10/19/2006	(513846)
70	10/24/2006	(550326)
71	10/26/2006	(514909)
72	10/27/2006	(513802)
73	11/17/2006	(519597)
74	11/21/2006	(517729)
75	11/22/2006	(550327)
76	11/28/2006	(519615)
77	12/12/2006	(532203)
78	12/12/2006	(532226)
79	12/12/2006	(532244)
80	12/13/2006	(518900)
81	12/20/2006	(550328)
82	12/28/2006	(535120)
83	01/18/2007	(586140)
84	01/23/2007	(535661)
85	01/31/2007	(536371)
86	02/08/2007	(536918)
87	02/22/2007	(586135)
88	03/22/2007	(540321)
89	03/27/2007	(586136)

90	04/04/2007	(586137)
91	04/11/2007	(554413)
92	04/26/2007	(539463)
93	05/17/2007	(560860)
94	05/29/2007	(560203)
95	05/29/2007	(586138)
96	06/21/2007	(586139)
97	07/10/2007	(565290)
98	07/20/2007	(604657)
99	08/08/2007	(565454)
100	08/23/2007	(604658)
101	08/30/2007	(570727)
102	10/02/2007	(572266)
103	10/04/2007	(596270)
104	10/11/2007	(597013)
105	10/12/2007	(572163)
106	10/15/2007	(624228)
107	11/02/2007	(597183)
108	11/13/2007	(597017)
109	11/14/2007	(624230)
110	12/10/2007	(624229)
111	12/20/2007	(611110)
112	12/20/2007	(611997)
113	01/02/2008	(693530)
114	01/03/2008	(612855)
115	02/07/2008	(675161)
116	02/07/2008	(675162)
117	02/28/2008	(637446)
118	03/07/2008	(614969)
119	03/20/2008	(616199)
120	03/20/2008	(616287)
121	03/31/2008	(639964)
122	04/16/2008	(639506)
123	05/07/2008	(693527)
124	05/07/2008	(693528)
125	05/07/2008	(693529)
126	05/21/2008	(618869)
127	05/21/2008	(618883)
128	05/21/2008	(618889)
129	05/21/2008	(640852)
130	06/04/2008	(640595)
131	06/10/2008	(657097)
132	06/25/2008	(714808)
133	07/02/2008	(684936)
134	07/03/2008	(683122)
135	07/16/2008	(681917)
136	07/16/2008	(683127)
137	07/16/2008	(683128)
138	07/16/2008	(683808)
139	07/16/2008	(683811)
140	07/16/2008	(685413)
141	07/23/2008	(714809)
142	08/04/2008	(683129)
143	08/04/2008	(685399)
144	08/04/2008	(685406)
145	08/04/2008	(687503)
146	08/12/2008	(689558)
147	08/20/2008	(714810)
148	08/27/2008	(687423)

149 09/10/2008 (714811)
 150 10/06/2008 (700458)
 151 10/16/2008 (703172)
 152 10/16/2008 (703604)
 153 10/16/2008 (704324)
 154 10/20/2008 (714812)
 155 11/05/2008 (730710)
 156 12/02/2008 (707118)
 157 12/02/2008 (708189)
 158 12/03/2008 (730711)
 159 12/22/2008 (708671)
 160 01/02/2009 (730712)
 161 01/06/2009 (722318)
 162 01/09/2009 (722153)
 163 02/04/2009 (753951)
 164 02/24/2009 (736523)
 165 03/03/2009 (753952)
 166 03/06/2009 (737804)
 167 04/01/2009 (753953)
 168 04/02/2009 (726512)
 169 04/07/2009 (726868)
 170 04/08/2009 (736647)
 171 04/08/2009 (736889)
 172 04/09/2009 (738244)
 173 04/30/2009 (742741)
 174 05/04/2009 (739571)
 175 05/06/2009 (771299)
 176 05/14/2009 (743565)
 177 05/15/2009 (744370)
 178 06/02/2009 (771300)
 179 06/18/2009 (745021)
 180 06/22/2009 (748902)
 181 07/06/2009 (813869)
 182 08/05/2009 (813870)
 183 09/03/2009 (813871)
 184 10/06/2009 (778061)
 185 10/06/2009 (778097)
 186 11/12/2009 (813873)
 187 12/14/2009 (813874)
 188 01/07/2010 (813875)
 189 02/16/2010 (813868)
 190 02/26/2010 (790047)
 191 03/17/2010 (834099)
 192 03/29/2010 (813872)
 193 05/13/2010 (834100)
 194 06/03/2010 (847258)
 195 07/01/2010 (800848)
 196 07/27/2010 (829935)

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

Date: 08/31/2005 (445261) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/19/2005 (400772) CN600132161
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to maintain an affirmative defense due to human error for the excess opacity emissions over the visible emissions limit during this event.

Date: 09/19/2005 (399589) CN600132161
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to submit a final notification report for Incident No. 49483 within 2 weeks from the end of the maintenance event.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to comply with 30 TAC 111.111(a)(1)(B) and 5 THC 382.085(b).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to submit a final notification report for Incident No. 51016 within two weeks from the end of the maintenance event.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to comply with 30 TAC 111.111(a)(1)(B) and 5C THC 382.085(b).

Date: 09/30/2005 (476506) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2005 (476507) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (434193) CN600132161
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)
 Description: Failure to provide suitable sampling tap on the discharge pipe of the each well prior to any treatment.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
 Description: Failure to compile Monthly operating Reports of Water Works Operation.

Date: 12/31/2005 (476509) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/06/2006 (438412) CN600132161
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to submit the **permit compliance certification** within 30 days of the end of the compliance certification period.

Date: 03/03/2006 (456090) CN600132161
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to comply with opacity limits set forth under 30 TAC 111.111(a)(1)(A).

Date: 03/31/2006 (503519) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (503520) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/23/2006 (464297) CN600132161
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply the self-monitored effluent limitations.

Date: 05/31/2006 (503521) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (525877) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/27/2006 (480295) CN600132161
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to comply with the 20 percent opacity limit set forth under 30 TAC 111.111(a)(1)(B).

Date: 07/27/2006 (484198)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to comply with the 30 percent opacity limit set forth under 30 TAC 111.111(a)(1)(B).

Date: 09/28/2006 (488417)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to comply with the 30 percent opacity limit set forth under 30 TAC 111.111(a)(1)(A).

Date: 11/30/2006 (519615) CN600132161
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to maintain an affirmative defense due to human error for the excess opacity emissions generated over the visible emissions limit during this event.

Date: 03/23/2007 (540321)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.211(b)
 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to comply with opacity limits set forth under 30 TAC 111.111(a)(1)(B).

Date: 04/30/2007 (539463) CN600132161
 Self Report? NO Classification: Moderate
 Citation: 1, Special Condition 1 PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to meet the carbon monoxide emission limit for Kiln 2 of 100 pounds per hour.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to include detailed information on all deviations occurring during the period on the **permit compliance certification**.

Date: 04/30/2007 (586138) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (624229) CN600132161
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/07/2008 (637029)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THSC Chapter 382 382.085(b)

Description: Failure to submit a **Title V Permit Compliance Certification** by the due date.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)

Description: Failure to include all deviations on the Deviation Report.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 5C THSC Chapter 382 382.085(b)

Description: Failure to submit a Deviation Report before the due date.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 113, SubChapter C 113.100
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(d)(5)(i)
 5C THSC Chapter 382 382.085(b)

Description: Failure to submit a 40 CFR Part 63 Subpart LLL semiannual report by the due date.
 Date: 04/01/2008 (639964)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the 20 percent opacity limit set forth under 30 Texas Administrative Code 111.111(a)(1)(A) during an excess opacity event that occurred on March 9, 2008. The opacity exceedance was the result of an excess opacity event that did not meet affirmative defense because it was caused by human error.
 Date: 06/12/2008 (657097) **CN600132161**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the 30 percent opacity limit set forth under 30 Texas Administrative Code (TAC) 111.111(a)(1)(A) during an excess opacity event that occurred on April 7, 2008. The six-minute opacity of 84.04 percent in Kiln No. 1 stack is an exceedance, and was the result of an excess opacity event that did not meet affirmative defense because it was caused by human error.
 Date: 07/31/2008 (714810) **CN600132161**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 10/21/2008 (704324) **CN600132161**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 5C THSC Chapter 382 382.085(b)

Description: This follow-up investigation was conducted to resolve a Notice of Violation dated October 21, 2008.
 Date: 10/31/2008 (730710) **CN600132161**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 12/04/2008 (708189)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
 5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the 20 percent opacity limit set forth under 30 Texas Administrative Code (TAC) 111.111(a)(1)(B) during an excess opacity event that occurred on October 15, 2008.
 Date: 01/09/2009 (722153) **CN600132161**
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to ensure flow measurement accuracy.
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the permitted effluent limits for one or more parameter as established in the permit.
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the maximum monthly flow limit as established in the permit.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(b)(1)
 Description: Failure to properly maintain the wastewater treatment plant (WWTP).
 Date: 04/03/2009 (726512) CN600132161
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 Special Condition 21 PERMIT
 Description: Failure to submit quarterly excess emission reports for the Third and Fourth Quarter of 2007.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 O1054, Special Condition 9 OP
 Description: Failure to perform required Compliance Assurance Monitoring for Unit 5-2A.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 O1054, Special Condition 9 OP
 Description: Failure to perform required Compliance Assurance Monitoring on Unit 2-9.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 O1054, Special Condition 10 OP
 Description: Failure to perform required Periodic Monitoring.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 O1054, Special Condition 10 OP
 Description: Failure to perform Periodic Monitoring by not performing monthly Method 9 readings as required.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to include a deviation on the 5/7/07 - 11/7/07 Deviation Report.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(a)
 Description: Failure to include all deviations on the Deviation Report for 4/11/08 - 10/12/08.
 Date: 04/09/2009 (738244)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to comply with the 20 percent opacity limit set forth under 30 Texas Administrative Code (TAC) 111.111(a)(1)(A) during an excess opacity event that occurred on February 20, 2009.
 The six-minute opacity of 58.0 percent in Kiln No. 3 stack is an exceedence of the opacity limit, and was the result of an excess opacity event that did not meet affirmative defense because it was caused by human error.
 Date: 09/30/2009 (813872) CN600132161
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2009 (813873) CN600132161

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2010 (813868) CN600132161

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 07/28/2010 (829935) CN600132161

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Permit O-01054, Special Condition 10 OP

Description: Failure to record the pressure drop on Unit 32, CKD Silo Baghouse, on a weekly basis for 21 weeks.

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
ASH GROVE TEXAS, L.P.;
RN100225978**

**§
§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1402-AIR-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Ash Grove Texas, L.P. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Eric Groten of the law firm Vinson & Elkins LLP, presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates a cement manufacturing plant located at 900 Gifco Road in Midlothian, Ellis County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on June 17, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to timely submit the permit compliance certification ("PCC") within 30 days of the end of the certification period. Specifically, the PCC for the reporting period October 13, 2008 to October 12, 2009 was to be submitted by November 11, 2009, but was not received until July 2, 2010; and
 - b. Failed to timely submit the semi-annual start-up, shutdown, and malfunction report within 30 days after the end of the calendar half. Specifically, the

report for the period July 1, 2008 to December 31, 2008 was due no later than January 30, 2009, and was submitted 49 days late.

3. Respondent received notice of the violations on or about August, 2, 2010.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a, Respondent failed to timely submit the PCC within 30 days of the end of the certification period, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 122.146(2).
3. As evidenced by Finding of Fact No. 2.b, Respondent failed to timely submit the semi-annual start-up, shutdown, and malfunction report within 30 days after the end of the calendar half, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE §§ 101.20(2) and 113.690, and 40 C.F.R. § 63.10(d)(5)(i).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of ten thousand nine hundred seventy-five dollars (\$10,975.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid ten thousand nine hundred seventy-five dollars (\$10,975.00) of the administrative penalty.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall implement improvements to reporting practices that address the late submittal of the October 13, 2008 through October 12, 2009 PCC and that are designed to prevent recurrence of same or similar incidents, in accordance with 30 TEX. ADMIN. CODE § 122.146(2) (Conclusion of Law No. 2).
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including

photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director.

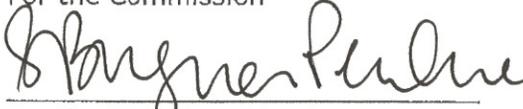
The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/2/2012

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Ash Grove Texas, L.P., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Kevin D. Blankenship
Signature

11/13/2011
Date

Kevin D. Blankenship
Name (Printed or typed)
Authorized representative of
Ash Grove Texas, L.P.

Plant Manager
Title