

Executive Summary – Enforcement Matter – Case No. 50678

APAC-TEXAS, Inc.

RN104158605

Docket No. 2015-0896-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Liberty Hill Material and Transfer Facility, 11729 West State Highway 29, Liberty Hill,
Williamson County

Type of Operation:

Construction material and transfer facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 25, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,438

Amount Deferred for Expedited Settlement: \$2,287

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,151

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 2, 2015

Date(s) of NOE(s): May 29, 2015

Executive Summary – Enforcement Matter – Case No. 50678

APAC-TEXAS, Inc.

RN104158605

Docket No. 2015-0896-EAQ-E

Violation Information

1. Failed to obtain approval of a modification to an approved Edwards Aquifer Contributing Zone Plan ("CZP") prior to constructing the modification. Specifically, the Respondent constructed a permanent aboveground storage tank ("AST") refueling facility housing four ASTs without obtaining approval [30 TEX. ADMIN. CODE § 213.23(i) and Edwards Aquifer CZP No. 11-04010601 Standard Condition No. 3].
2. Failed to maintain permanent best management practices after construction. Specifically, sediment was accumulated in the south pond leading to the outlet and the outlet was partially clogged with sediment [30 TEX. ADMIN. CODE § 213.23(k)(1) and Edwards Aquifer CZP No. 11-10031501 Standard Condition No. 11].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By April 23, 2015, installed new rip rap, filter cloth and fencing around the existing outlet in the pond; installed new filtering rock at the base of the existing gabion walls to repair wash-outs; and removed the silt from the bottom of the basin.
- b. By June 23, 2015, received approval of a modification to Edwards Aquifer CZP No. 11-15022002.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Stephen R. Koonce, Director, APAC-TEXAS, Inc., 2121 Irving Boulevard, Dallas, Texas 75207

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	1-Jun-2015	Screening	16-Jun-2015	EPA Due	
	PCW	14-Jul-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	APAC-TEXAS, Inc.
Reg. Ent. Ref. No.	RN104158605
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	50678	No. of Violations	2
Docket No.	2015-0896-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$13,000
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,562
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$155	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$31,955	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,438
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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:

Final Penalty Amount	\$11,438
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,438
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,287
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,151
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Screening Date 16-Jun-2015
Respondent APAC-TEXAS, Inc.
Case ID No. 50678
Reg. Ent. Reference No. RN104158605
Media [Statute] Edwards Aquifer
Enf. Coordinator Jennifer Graves

Docket No. 2015-0896-EAQ-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date 16-Jun-2015
Respondent APAC-TEXAS, Inc.
Case ID No. 50678
Reg. Ent. Reference No. RN104158605
Media [Statute] Edwards Aquifer
Enf. Coordinator Jennifer Graves

Docket No. 2015-0896-EAQ-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.23(i) and Edwards Aquifer Contributing Zone Plan ("CZP") No. 11-04010601 Standard Condition No. 3

Violation Description Failed to obtain approval of a modification to an approved Edwards Aquifer CZP prior to constructing the modification, as documented during an investigation conducted on April 2, 2015. Specifically, the Respondent constructed a permanent aboveground storage tank ("AST") refueling facility housing four ASTs without obtaining approval.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3

75 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the investigation date (April 2, 2015) to the screening date (June 16, 2015).

Good Faith Efforts to Comply

10.0%

Reduction \$1,125

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

Notes The Respondent achieved compliance by June 23, 2015.

Violation Subtotal \$10,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$80

Violation Final Penalty Total \$10,125

This violation Final Assessed Penalty (adjusted for limits) \$10,125

Economic Benefit Worksheet

Respondent APAC-TEXAS, Inc.
Case ID No. 50678
Reg. Ent. Reference No. RN104158605
Media Edwards Aquifer
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	\$3,250	2-Apr-2015	23-Jun-2015	0.22	\$2	\$49	\$51
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	\$2,600	2-Apr-2015	23-Jun-2015	0.22	\$29	n/a	\$29
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to have a third party fill out the application, prepare the documentation, travel expenses, and consulting fees. Date required is the investigation date. Final date is the date of compliance.
 Estimated cost to apply for a CZP AST modification (\$650 x 4 tanks = \$2,600). Date required is the investigation date. Final date is 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

\$5,850

TOTAL

\$80

Screening Date 16-Jun-2015
Respondent APAC-TEXAS, Inc.
Case ID No. 50678
Reg. Ent. Reference No. RN104158605
Media [Statute] Edwards Aquifer
Enf. Coordinator Jennifer Graves

Docket No. 2015-0896-EAQ-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 213.23(k)(1) and Edwards Aquifer CZP No. 11-10031501 Standard Condition No. 11

Violation Description

Failed to maintain permanent best management practices ("BMPs") after construction, as documented during an investigation conducted on April 2, 2015. Specifically, sediment was accumulated in the south pond leading to the outlet and the outlet was partially clogged with sediment.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	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

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(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 APAC-TEXAS, Inc.
Case ID No. 50678
Reg. Ent. Reference No. RN104158605
Media Edwards Aquifer
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$26,105	2-Apr-2015	23-Apr-2015	0.06	\$75	n/a	\$75
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install new rip rap, filter cloth, and fencing around the existing outlet in the pond; install new filtering rock at the base of the existing gabion walls to repair wash-outs; and remove silt from the bottom of the basin. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$26,105

TOTAL

\$75



Compliance History Report

PUBLISHED Compliance History Report for CN600317473, RN104158605, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN600317473, APAC-TEXAS, Inc.	Classification:	SATISFACTORY	Rating:	0.74
Regulated Entity:	RN104158605, LIBERTY HILL MATERIAL AND TRANSFER FACILITY	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	3	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	11729 W STATE HIGHWAY 29 LIBERTY HILL, WILLIAMSON COUNTY, TX				
TCEQ Region:	REGION 11 - AUSTIN				

ID Number(s):	EDWARDS AQUIFER PERMIT 11-04010601	EDWARDS AQUIFER PERMIT 11-10031501
	EDWARDS AQUIFER PERMIT 11-15022002	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 77898

Compliance History Period:	September 01, 2009 to August 31, 2014	Rating Year:	2014	Rating Date:	09/01/2014
Date Compliance History Report Prepared:	July 23, 2015				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	July 23, 2010 to July 23, 2015				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Jennifer Graves **Phone:** (956) 430-6023

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator?
Heart of Texas Hotmix, L.C. OWNER OPERATOR since 9/23/2005
APAC-TEXAS, Inc. OWNER OPERATOR since 10/3/2011
Capitol Aggregates, Ltd. OWNER OPERATOR since 3/30/2006
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)?
Texas Fleet Fuel Ltd., OWNER, 8/31/1987 to 10/2/2011
- 5) If **YES**, when did the change(s) in owner or operator occur?
10/3/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
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.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
APAC-TEXAS, INC.
RN104158605**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-0896-EAQ-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding APAC-TEXAS, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a construction material and transfer facility located at 11729 West State Highway 29 in Liberty Hill, Williamson County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Executive Director 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 June 3, 2015.
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 Eleven Thousand Four Hundred Thirty-Eight Dollars (\$11,438) is assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand One Hundred Fifty-One Dollars (\$9,151) of the administrative penalty and Two Thousand Two Hundred Eighty-Seven Dollars (\$2,287) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By April 23, 2015, installed new rip rap, filter cloth and fencing around the existing outlet in the pond; installed new filtering rock at the base of the existing gabion walls to repair wash-outs; and removed the silt from the bottom of the basin.
 - b. By June 23, 2015, received approval of a modification to Edwards Aquifer Contributing Zone Plan ("CZP") No. 11-15022002.
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 Facility, the Respondent is alleged to have:

1. Failed to obtain approval of a modification to an approved Edwards Aquifer CZP prior to constructing the modification, in violation of 30 TEX. ADMIN. CODE § 213.23(i) and Edwards Aquifer CZP No. 11-04010601 Standard Condition No. 3, as documented during an investigation conducted on April 2, 2015. Specifically, the Respondent constructed a

permanent aboveground storage tank ("AST") refueling facility housing four ASTs without obtaining approval.

2. Failed to maintain permanent best management practices ("BMPs") after construction, in violation of 30 TEX. ADMIN. CODE § 213.23(k)(1) and Edwards Aquifer CZP No. 11-10031501 Standard Condition No. 11, as documented during an investigation conducted on April 2, 2015. Specifically, sediment was accumulated in the south pond leading to the outlet and the outlet was partially clogged with sediment.

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: APAC-TEXAS, Inc., Docket No. 2015-0896-EAQ-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Tommy Malone J
For the Executive Director

12/4/15
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.

SRK
Signature

8/5/2015
Date

Stephen R. Koonce
Name (Printed or typed)
Authorized Representative of
APAC-TEXAS, Inc.

Director
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.