

**Executive Summary – Enforcement Matter – Case No. 48991**  
**Jesus Espinoza dba Champion Stone Quarry**  
**RN107326126**  
**Docket No. 2014-1016-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - EAQ, WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Champion Stone Quarry, 5305 State Highway 195, Georgetown, Williamson County

**Type of Operation:**

Aggregate production operation ("APO")

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 17, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$55,000

**Amount Deferred for Expedited Settlement:** \$11,000

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,420

**Total Due to General Revenue:** \$42,580

Payment Plan: 34 payments of \$1,216 each and one payment of \$1,236

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

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** \$9,500

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 1, 2014

**Date(s) of NOE(s):** July 2, 2014

**Executive Summary – Enforcement Matter – Case No. 48991**  
**Jesus Espinoza dba Champion Stone Quarry**  
**RN107326126**  
**Docket No. 2014-1016-MLM-E**

***Violation Information***

1. Failed to register the Site as an APO by October 30, 2012 [30 TEX. ADMIN. CODE § 342.25].
2. Failed to obtain authorization to discharge stormwater associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
3. Failed to obtain approval of an Edwards Aquifer Protection Plan ("EAPP") prior to commencing the regulated activities. Specifically, stone cutting activity was observed at the Site in the Edwards Aquifer Recharge Zone [30 TEX. ADMIN. CODE § 213.4 (a)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, cease any regulated activity at the Site until such time that an EAPP has been reviewed and approved by the TCEQ Austin Regional Office.
- b. Within 30 days:
  - i. Submit a technically complete and accurate EAPP for review and approval;
  - ii. Respond completely and adequately to all requests for additional information within 30 days of such requests, or by any other deadline specified in writing;
  - iii. Submit an application to register the Site as an APO;
  - iv. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES MSGP No. TXR050000; and
  - v. Submit a Notice of Intent and associated fees.
- c. Within 45 days, submit written certification to demonstrate compliance with a. through b.v.

**Executive Summary – Enforcement Matter – Case No. 48991**  
**Jesus Espinoza dba Champion Stone Quarry**  
**RN107326126**  
**Docket No. 2014-1016-MLM-E**

***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:** Cheryl Thompson, Enforcement Division,  
Enforcement Team 3, MC R-04, (817) 588-5886; Melissa Cordell, Enforcement  
Division, MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Jesus Espinoza, Owner, Champion Stone Quarry, 5305 State Highway  
195, Georgetown, Texas 78633  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned PCW</b>	7-Jul-2014	<b>Screening</b>	15-Jul-2014	<b>EPA Due</b>	
		2-Jul-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Jesus Espinoza dba Champion Stone Quarry		
<b>Reg. Ent. Ref. No.</b>	RN107326126		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48991	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2014-1016-MLM-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Edwards Aquifer	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Cheryl Thompson	
	Aggregate Production Operation	<b>EC's Team</b>	Enforcement Team 3	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$41,250**

### 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: \$0  
Estimated Cost of Compliance: \$2,500

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$41,250**

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

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes:

**Final Penalty Amount** **\$41,250**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$41,250**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$8,250**

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** **\$33,000**

Screening Date 15-Jul-2014

Docket No. 2014-1016-MLM-E

PCW

Respondent Jesus Espinoza dba Champion Stone Quarry

Policy Revision 4 (April 2014)

Case ID No. 48991

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107326126

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

### 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%

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)

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 15-Jul-2014

Docket No. 2014-1016-MLM-E

PCW

Respondent Jesus Espinoza dba Champion Stone Quarry

Policy Revision 4 (April 2014)

Case ID No. 48991

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107326126

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 213.4(a)(1)

Violation Description

Failed to obtain approval of an Edwards Aquifer Protection Plan ("EAPP") prior to commencing regulated activities, as documented during an investigation conducted on May 1, 2014. Specifically, stone cutting activity was observed at the Site in the Edwards Aquifer Recharge Zone.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 11 75 Number of violation days

mark only one with an x	daily	
	weekly	x
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$41,250

Eleven weekly events are recommended from the period of May 1, 2014 (Investigation date) to July 15, 2014 (screening date).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/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 \$41,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$41,250

This violation Final Assessed Penalty (adjusted for limits) \$41,250

# Economic Benefit Worksheet

**Respondent** Jesus Espinoza dba Champion Stone Quarry  
**Case ID No.** 48991  
**Reg. Ent. Reference No.** RN107326126  
**Media** Edwards Aquifer  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Permit Costs	\$2,500	1-May-2014	18-May-2015				
Other (as needed)							

**Notes for DELAYED costs**

Estimated cost to obtain approval of an EAPP prior to commencing regulated activities. Date required is the investigation date. Final date is the estimated 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	\$2,500	<b>TOTAL</b>	\$0
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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	7-Jul-2014	<b>Screening</b>	15-Jul-2014	<b>EPA Due</b>	
	<b>PCW</b>	2-Jul-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Jesus Espinoza dba Champion Stone Quarry		
<b>Reg. Ent. Ref. No.</b>	RN107326126		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48991	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2014-1016-MLM-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>	Edwards Aquifer	<b>Enf. Coordinator</b>	Cheryl Thompson	
	Aggregate Production Operation	<b>EC's Team</b>	Enforcement Team 3	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,750**

### 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: \$105  
Estimated Cost of Compliance: \$2,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,750**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$3,750**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$3,750**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$750**

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** **\$3,000**

Screening Date 15-Jul-2014

Docket No. 2014-1016-MLM-E

PCW

Respondent Jesus Espinoza dba Champion Stone Quarry

Policy Revision 4 (April 2014)

Case ID No. 48991

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107326126

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### 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) 0%

#### >> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

<b>Compliance History Notes</b>	No adjustment for compliance history.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 15-Jul-2014

Docket No. 2014-1016-MLM-E

PCW

Respondent Jesus Espinoza dba Champlon Stone Quarry

Policy Revision 4 (April 2014)

Case ID No. 48991

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107326126

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge stormwater associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit No. TXR050000, as documented during an investigation conducted on May 1, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3 Number of violation days 75

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

Three monthly events are recommended from the period of May 1, 2014 (Investigation date) to July 15, 2014 (screening date).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

## Economic Benefit Worksheet

**Respondent** Jesus Espinoza dba Champion Stone Quarry  
**Case ID No.** 48991  
**Reg. Ent. Reference No.** RN107326126  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Item Description** No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,000	1-May-2014	18-May-2015	1.05	\$105	n/a	\$105
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost of obtaining authorization to discharge stormwater associated with industrial activities, including developing and implementing a stormwater pollution prevention plan. Date required is the investigation date. 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 \$2,000

**TOTAL** \$105



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	7-Jul-2014	Screening	15-Jul-2014	EPA Due	
	PCW	27-Jan-2015				

## RESPONDENT/FACILITY INFORMATION

Respondent	Jesus Espinoza dba Champion Stone Quarry		
Reg. Ent. Ref. No.	RN107326126		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	48991	No. of Violations	1			
Docket No.	2014-1016-MLM-E	Order Type	1660			
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No			
Multi-Media	Water Quality	Enf. Coordinator	Cheryl Thompson			
	Edwards Aquifer	EC's Team	Enforcement Team 3			
Admin. Penalty \$	Limit Minimum	\$5,000	Maximum	\$10,000	Violation Maximum	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$57	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$450	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

Notes

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 15-Jul-2014

Docket No. 2014-1016-MLM-E

PCW

Respondent Jesus Espinoza dba Champion Stone Quarry

Policy Revision 4 (April 2014)

Case ID No. 48991

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107326126

Media [Statute] Aggregate Production Operation

Enf. Coordinator Cheryl Thompson

### 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 15-Jul-2014

Docket No. 2014-1016-MLM-E

PCW

Respondent Jesus Espinoza dba Champion Stone Quarry

Policy Revision 4 (April 2014)

Case ID No. 48991

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107326126

Media [Statute] Aggregate Production Operation

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25

Violation Description Failed to register the Site as an aggregate production operation by October 30, 2012, as documented during an investigation conducted on May 1, 2014.

Base Penalty \$10,000

>> 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 5.0%

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

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 2

623 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

Two single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$57

Statutory Limit Test

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

# Economic Benefit Worksheet

**Respondent** Jesus Espinoza dba Champlon Stone Quarry  
**Case ID No.** 48991  
**Reg. Ent. Reference No.** RN107326126  
**Media** Aggregate Production Operation  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$450	30-Oct-2012	18-May-2015	2.55	\$57	n/a	\$57
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register as an aggregate production operation. Date required is the date the registration was due. 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

\$450

**TOTAL**

\$57

The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604610881, RN107326126, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN604610881, Jesus Espinoza      **Classification:** NOT APPLICABLE      **Rating:** N/A  
**Regulated Entity:** RN107326126, CHAMPION STONE QUARRY      **Classification:** NOT APPLICABLE      **Rating:** N/A  
**Complexity Points:** N/A      **Repeat Violator:** N/A  
**CH Group:** 14 - Other  
**Location:** 5305 STATE HIGHWAY 195 In GEORGETOWN, WILLIAMSON COUNTY, TEXAS  
**TCEQ Region:** REGION 11 - AUSTIN  
**ID Number(s):**  
WATER QUALITY NON PERMITTED ID NUMBER R11107326126

**Compliance History Period:** September 01, 2008 to August 31, 2013      **Rating Year:** 2013      **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** July 15, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 15, 2009 to July 15, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

## 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? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## 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  
JESUS ESPINOZA DBA  
CHAMPION STONE QUARRY  
RN107326126**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2014-1016-MLM-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 Jesus Espinoza dba Champion Stone Quarry ("Respondent") under the authority of TEX. WATER CODE chs. 7, 26 and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an aggregate production operation located at 5305 State Highway 195 in Georgetown, Williamson County, Texas (the "Site").
2. The Respondent is a responsible party, because he is the owner and operator, as defined in TEX. WATER CODE § 28A.001 (4), (5) and (6), of an aggregate production operation located at the Site. Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an aggregate production operation as defined in TEX. WATER. CODE § 28.001(1).
3. The Site is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
4. 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.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on August 11, 2014.

6. 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.
7. An administrative penalty in the amount of Fifty-Five Thousand Dollars (\$55,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred Twenty Dollars (\$1,420) of the administrative penalty and Eleven Thousand Dollars (\$11,000) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Forty-Two Thousand Five Hundred Eighty Dollars (\$42,580) of the administrative penalty shall be payable in 34 monthly payments of One Thousand Two Hundred Sixteen Dollars (\$1,216) each and one payment of One Thousand Two Hundred Thirty-Six Dollars (\$1,236). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

8. 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.
9. 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).
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 register the Site as an aggregate production operation ("APO") by October 30, 2012, in violation of 30 TEX. ADMIN. CODE § 342.25, as documented during an investigation conducted on May 1, 2014.
2. Failed to obtain authorization to discharge stormwater associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on May 1, 2014.
3. Failed to obtain approval of an Edwards Aquifer Protection Plan ("EAPP") prior to commencing the regulated activities, in violation of 30 TEX. ADMIN. CODE § 213.4 (a)(1), as documented during an investigation conducted on May 1, 2014. Specifically, stone cutting activity was observed at the Site in the Edwards Aquifer Recharge Zone.

### 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 7 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: Jesus Espinoza dba Champion Stone Quarry, Docket No. 2014-1016-MLM-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease any regulated activity at the Site until such time that an EAPP has been reviewed and approved by the TCEQ Austin Regional Office.
  - b. Within 30 days after the effective date of this Agreed Order:
    - i. Submit a technically complete and accurate EAPP for review and approval to:

Edwards Aquifer Protection Program  
Austin Regional Office  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- ii. Respond completely and adequately to all requests for additional information within 30 days of such requests, or by any other deadline specified in writing;
- iii. Submit an application to register the Site as an APO, in accordance with 30 TEX. ADMIN. CODE § 342.25;
- iv. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES MSGP No. TXR050000; and
- v. Submit a Notice of Intent and associated fees to:

Storm Water and Pretreatment Team, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-30870

- 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. through 2.b.v. 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:

Water Section Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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 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.

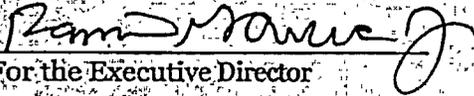
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
For the Executive Director



\_\_\_\_\_  
Date

4/29/16

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Printed or typed)

\_\_\_\_\_  
Title

Authorized Representative of  
Jesus Espinoza dba Champion Stone Quarry

**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.