

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 50766  
ESPINOZA STONE, INC.  
RN106352875 and RN108638545  
Docket No. 2015-0997-WQ-E

**Order Type:**

Agreed Order

**Media:**

WQ

**Small Business:**

Yes

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

County Road 207, approximately 0.5 miles southwest of the intersection of County Roads 205 and 207 in Shackelford County (RN106352875) ("Site No. 1"); and  
470 East County Road 427 in Goldthwaite, Mills County (RN108638545) ("Site No. 2").

**Type of Operation:**

aggregate production operations ("APOs")

**Other Significant Matters:**

Additional Pending Enforcement Actions: 2014-1439-MLM-E (AO pending agenda setting)  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** July 1, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$10,000

**Total Paid to General Revenue:** \$305

**Total Due to General Revenue:** \$9,695

Payment Plan: 35 payments of \$277 each

**Compliance History Classifications:**

Person/CN –High  
Site/RN – Unclassified (Site No. 1); N/A (Site No. 2)

**Major Source:** No

**Statutory Limit Adjustment:** \$9,100 enhancement (\$4,550 on each PCW)

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** April 30, 2015 (Site No. 1); June 30, 2015 (Site No. 2)  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** June 9, 2015 (Site No. 1); July 27, 2015 (Site No. 2)

**Violation Information**

1. Failed to renew the APO registration annually for Site No. 1 as regulated activities continued [30 TEX. ADMIN. CODE § 342.25(d)].
2. Failed to register Site No. 2 as an APO not later than 10 business days before the beginning date of regulated activities [30 TEX. ADMIN. CODE § 342.25(b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

Renewed the annual APO registration for Site No. 1 on February 8, 2016.

**Technical Requirements:**

1. Within 30, days submit an application to register Site No. 2 as an APO.
2. Within 45, days submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** January 13, 2016; May 20, 2016  
**Date Green Card(s) Signed:** January 16, 2016; May 25, 2016  
**Date Answer(s) Filed:** N/A  
**Settlement Date:** May 19, 2016

**Contact Information**

**TCEQ Attorneys:** Jess Robinson, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, (817) 588-5886

**TCEQ Regional Contacts:** Cliff Moore, Abilene Regional Office, (325) 698-9674  
Richard Monreal, Waco Regional Office, (254) 751-0335

**Respondent Contact:** Jose J. Espinoza, Governing Person, ESPINOZA STONE, INC., P.O. Box 274, Jarrell, Texas 76537

**Respondent's Attorney:** N/A



## Penalty Calculation Worksheet (PCW)

TCEQ

|              |                 |             |                  |             |
|--------------|-----------------|-------------|------------------|-------------|
| <b>DATES</b> | <b>Assigned</b> | 15-Jun-2015 |                  |             |
|              | <b>PCW</b>      | 13-Apr-2016 | <b>Screening</b> | 25-Jun-2015 |
|              |                 |             | <b>EPA Due</b>   |             |

**RESPONDENT/FACILITY INFORMATION**

|                             |                                   |                           |       |
|-----------------------------|-----------------------------------|---------------------------|-------|
| <b>Respondent</b>           | ESPINOZA STONE, INC. (Site No. 1) |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN106352875                       |                           |       |
| <b>Facility/Site Region</b> | 3-Abilene                         | <b>Major/Minor Source</b> | Minor |

**CASE INFORMATION**

|  |                                |                              |                    |
|--|--------------------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 50766                          | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2015-0997-WQ-E                 | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Aggregate Production Operation | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                                | <b>Enf. Coordinator</b>      | Cheryl Thompson    |
|  |                                | <b>EC's Team</b>             | Enforcement Team 3 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$5,000                        | <b>Maximum</b>               | \$10,000           |
|  |                                | <b>Violation Maximum</b>     | \$25,000           |

**Penalty Calculation Section**

|   |                   |       |
|---|-------------------|-------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$500 |
|---|-------------------|-------|

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

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

|  |  |                                   |                                |                   |
|--|--|-----------------------------------|--------------------------------|-------------------|
| <b>Compliance History</b>                            | -10.0%   | Enhancement                       | <b>Subtotals 2, 3, &amp; 7</b> | -\$50             |
| <b>Notes</b>   | Reduction for high performer classification.           |                                   |                                |                   |
| <b>Culpability</b>                                   | No   | 0.0%                              | Enhancement                    | <b>Subtotal 4</b> |
| <b>Notes</b>   | The Respondent does not meet the culpability criteria. |                                   |                                |                   |
| <b>Good Faith Effort to Comply Total Adjustments</b> |  |                                   | <b>Subtotal 5</b>              | \$0               |
| <b>Economic Benefit</b>                              | 0.0%   | Enhancement*                      | <b>Subtotal 6</b>              | \$0               |
| <b>Total EB Amounts</b>                              | \$40   | *Capped at the Total EB \$ Amount |                                |                   |
| <b>Estimated Cost of Compliance</b>                  | \$500  |                                   |                                |                   |

|                             |                       |       |
|-----------------------------|-----------------------|-------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$450 |
|-----------------------------|-----------------------|-------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |                             |       |
|--------------|--|-----------------------------|-------|
| <b>Notes</b> |  | <b>Final Penalty Amount</b> | \$450 |
|--------------|--|-----------------------------|-------|

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$5,000 |
|-----------------------------------|-------------------------------|---------|

|              |   |
|--------------|---|
| <b>Notes</b> | The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102. |
|--------------|---|

|                 |      |           |                   |     |
|-----------------|------|-----------|-------------------|-----|
| <b>DEFERRAL</b> | 0.0% | Reduction | <b>Adjustment</b> | \$0 |
|-----------------|------|-----------|-------------------|-----|

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

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |
|--------------|--|

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$5,000 |
|------------------------|---------|

|                                |                                   |                   |                |                                       |
|--------------------------------|-----------------------------------|-------------------|----------------|---------------------------------------|
| <b>Screening Date</b>          | 25-Jun-2015                       | <b>Docket No.</b> | 2015-0997-WQ-E | <b>PCW</b>                            |
| <b>Respondent</b>              | ESPINOZA STONE, INC. (Site No. 1) |                   |                | <i>Policy Revision 4 (April 2014)</i> |
| <b>Case ID No.</b>             | 50766                             |                   |                | <i>PCW Revision March 26, 2014</i>    |
| <b>Reg. Ent. Reference No.</b> | RN106352875                       |                   |                |                                       |
| <b>Media [Statute]</b>         | Aggregate Production Operation    |                   |                |                                       |
| <b>Enf. Coordinator</b>        | Cheryl Thompson                   |                   |                |                                       |

### Compliance History Worksheet

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

| Component                     | Number of...   | <i>Enter Number Here</i> | 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)**

No

**Adjustment Percentage (Subtotal 3)** 0%

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

**>> Compliance History Summary**

**Compliance History Notes**

Reduction for high performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

|                                |                                   |                   |                |                                       |
|--------------------------------|-----------------------------------|-------------------|----------------|---------------------------------------|
| <b>Screening Date</b>          | 25-Jun-2015                       | <b>Docket No.</b> | 2015-0997-WQ-E | <b>PCW</b>                            |
| <b>Respondent</b>              | ESPINOZA STONE, INC. (Site No. 1) |                   |                | <i>Policy Revision 4 (April 2014)</i> |
| <b>Case ID No.</b>             | 50766                             |                   |                | <i>PCW Revision March 26, 2014</i>    |
| <b>Reg. Ent. Reference No.</b> | RN106352875                       |                   |                |                                       |
| <b>Media [Statute]</b>         | Aggregate Production Operation    |                   |                |                                       |
| <b>Enf. Coordinator</b>        | Cheryl Thompson                   |                   |                |                                       |

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

|           |                      |                      |                      |  |
|-----------|----------------------|----------------------|----------------------|--|
| <b>OR</b> | <b>Harm</b>          |                      |                      |  |
|           | Major                | Moderate             | Minor                |  |
|           | Actual               | <input type="text"/> | <input type="text"/> | <input type="text"/>                             |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <b>Percent</b> <input type="text" value="0.0%"/> |

**>> Programmatic Matrix**

|  |                      |       |                      |                      |  |
|--|----------------------|-------|----------------------|----------------------|--|
|  | Falsification        | Major | Moderate             | Minor                |  |
|  | <input type="text"/> | x     | <input type="text"/> | <input type="text"/> | <b>Percent</b> <input type="text" value="5.0%"/> |

**Matrix Notes**

**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 | x                    |

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

|               |                      |                                   |
|---------------|----------------------|-----------------------------------|
|               | Before NOE/NOV       | NOE/NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/>              |
| Ordinary      | <input type="text"/> | <input type="text"/>              |
| N/A           | 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** ESPINOZA STONE, INC. (Site No. 1)  
**Case ID No.** 50766  
**Reg. Ent. Reference No.** RN106352875  
**Media Violation No.** 1 Aggregate Production Operation

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

|                          |       |            |            |      |      |     |      |
|--------------------------|-------|------------|------------|------|------|-----|------|
| Equipment                |       |            |            | 0.00 | \$0  | \$0 | \$0  |
| Buildings                |       |            |            | 0.00 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |            |            | 0.00 | \$0  | \$0 | \$0  |
| Engineering/Construction |       |            |            | 0.00 | \$0  | \$0 | \$0  |
| Land                     |       |            |            | 0.00 | \$0  | n/a | \$0  |
| Record Keeping System    |       |            |            | 0.00 | \$0  | n/a | \$0  |
| Training/Sampling        |       |            |            | 0.00 | \$0  | n/a | \$0  |
| Remediation/Disposal     |       |            |            | 0.00 | \$0  | n/a | \$0  |
| Permit Costs             | \$500 | 8-Jul-2014 | 8-Feb-2016 | 1.59 | \$40 | n/a | \$40 |
| Other (as needed)        |       |            |            | 0.00 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Actual cost to register the Site as an APO. Date required is the date the registration expired. 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

\$500

**TOTAL**

\$40

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 CN602447062, RN106352875, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN602447062, ESPINOZA STONE, INC. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN106352875, Espinoza Stone Lueders (Site No. 1) **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 7 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** COUNTY ROAD 207, APPROXIMATELY 0.5 MILE SOUTHWEST OF THE INTERSECTION OF COUNTY ROAD 205 AND COUNTY ROAD 207 IN SHACKLEFORD COUNTY, TEXAS

**TCEQ Region:** REGION 03 - ABILENE

**ID Number(s):** **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 84930  
**STORMWATER PERMIT** TXR05BY08

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** August 19, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 19, 2010 to August 19, 2015

**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? NO
- 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

**THIS PAGE INTENTIONALLY LEFT BLANK**



Policy Revision 4 (April 2014)

## Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

|              |                 |             |                  |            |
|--------------|-----------------|-------------|------------------|------------|
| <b>DATES</b> | <b>Assigned</b> | 27-Jul-2015 |                  |            |
|              | <b>PCW</b>      | 13-Apr-2016 | <b>Screening</b> | 3-Aug-2015 |
|              |                 |             | <b>EPA Due</b>   |            |

|  |                                   |
|--|-----------------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                                   |
| <b>Respondent</b>                      | ESPINOZA STONE, INC. (Site No. 2) |
| <b>Reg. Ent. Ref. No.</b>              | RN108638545                       |
| <b>Facility/Site Region</b>            | 9-Waco                            |
| <b>Major/Minor Source</b>              | Minor                             |

|  |                                |                              |                    |
|--|--------------------------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                                |                              |                    |
| <b>Enf./Case ID No.</b>                | 50766                          | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2015-0997-WQ-E                 | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Aggregate Production Operation | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                                | <b>Enf. Coordinator</b>      | Cheryl Thompson    |
|  |                                | <b>EC's Team</b>             | Enforcement Team 3 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$5,000                        | <b>Maximum</b>               | \$10,000           |
|  |                                | <b>Violation Maximum</b>     | \$25,000           |

## Penalty Calculation Section

|   |                   |       |
|---|-------------------|-------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$500 |
|---|-------------------|-------|

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

|  |  |                                   |                                |                   |
|--|--|-----------------------------------|--------------------------------|-------------------|
| <b>Compliance History</b>                            | -10.0%   | Enhancement                       | <b>Subtotals 2, 3, &amp; 7</b> | -\$50             |
| <b>Notes</b>   | Reduction for high performer classification.           |                                   |                                |                   |
| <b>Culpability</b>                                   | No   | 0.0%                              | Enhancement                    | <b>Subtotal 4</b> |
| <b>Notes</b>   | The Respondent does not meet the culpability criteria. |                                   |                                | \$0               |
| <b>Good Faith Effort to Comply Total Adjustments</b> |  |                                   | <b>Subtotal 5</b>              | \$0               |
| <b>Economic Benefit</b>                              | 0.0%   | Enhancement*                      | <b>Subtotal 6</b>              | \$0               |
| <b>Total EB Amounts</b>                              | \$21   | *Capped at the Total EB \$ Amount |                                |                   |
| <b>Estimated Cost of Compliance</b>                  | \$500  |                                   |                                |                   |

|                             |                       |       |
|-----------------------------|-----------------------|-------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$450 |
|-----------------------------|-----------------------|-------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |                             |
|--------------|-----------------------------|
| <b>Notes</b> |                             |
|              | <b>Final Penalty Amount</b> |
|              | \$450                       |

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$5,000 |
|-----------------------------------|-------------------------------|---------|

|              |   |
|--------------|---|
| <b>Notes</b> | The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102. |
|--------------|---|

|                 |      |           |                   |     |
|-----------------|------|-----------|-------------------|-----|
| <b>DEFERRAL</b> | 0.0% | Reduction | <b>Adjustment</b> | \$0 |
|-----------------|------|-----------|-------------------|-----|

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

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |
|--------------|--|

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$5,000 |
|------------------------|---------|

**Screening Date** 3-Aug-2015 **Docket No.** 2015-0997-WQ-E  
**Respondent** ESPINOZA STONE, INC. (Site No. 2)  
**Case ID No.** 50766  
**Reg. Ent. Reference No.** RN108638545  
**Media [Statute]** Aggregate Production Operation  
**Enf. Coordinator** Cheryl Thompson

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**

Reduction for high performer classification.

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

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

|                                |                                   |                   |                |                                       |
|--------------------------------|-----------------------------------|-------------------|----------------|---------------------------------------|
| <b>Screening Date</b>          | 3-Aug-2015                        | <b>Docket No.</b> | 2015-0997-WQ-E | <b>PCW</b>                            |
| <b>Respondent</b>              | ESPINOZA STONE, INC. (Site No. 2) |                   |                | <i>Policy Revision 4 (April 2014)</i> |
| <b>Case ID No.</b>             | 50766                             |                   |                | <i>PCW Revision March 26, 2014</i>    |
| <b>Reg. Ent. Reference No.</b> | RN108638545                       |                   |                |                                       |
| <b>Media [Statute]</b>         | Aggregate Production Operation    |                   |                |                                       |
| <b>Enf. Coordinator</b>        | Cheryl Thompson                   |                   |                |                                       |

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

| OR | Release   | Harm                 |                      |                      | Percent                           |
|----|-----------|----------------------|----------------------|----------------------|-----------------------------------|
|    |           | Major                | Moderate             | Minor                |                                   |
|    | Actual    | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |
|    | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |                                   |

>> **Programmatic Matrix**

|  | Falsification        | Major                                     | Moderate             | Minor                | Percent                           |
|--|----------------------|---|----------------------|----------------------|-----------------------------------|
|  | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="5.0%"/> |

**Matrix Notes**

**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**

**Good Faith Efforts to Comply**  Reduction

|               | Before NOE/NOV                            | NOE/NOV to EDRP/Settlement Offer |
|---------------|---|----------------------------------|
| 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** ESPINOZA STONE, INC. (Site No. 2)  
**Case ID No.** 50766  
**Reg. Ent. Reference No.** RN108638545  
**Media** Aggregate Production Operation  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

|                          |       |             |            |      |      |     |      |
|--------------------------|-------|-------------|------------|------|------|-----|------|
| Equipment                |       |             |            | 0.00 | \$0  | \$0 | \$0  |
| Buildings                |       |             |            | 0.00 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |            | 0.00 | \$0  | \$0 | \$0  |
| Engineering/Construction |       |             |            | 0.00 | \$0  | \$0 | \$0  |
| Land                     |       |             |            | 0.00 | \$0  | n/a | \$0  |
| Record Keeping System    |       |             |            | 0.00 | \$0  | n/a | \$0  |
| Training/Sampling        |       |             |            | 0.00 | \$0  | n/a | \$0  |
| Remediation/Disposal     |       |             |            | 0.00 | \$0  | n/a | \$0  |
| Permit Costs             | \$500 | 30-Jun-2015 | 7-May-2016 | 0.85 | \$21 | n/a | \$21 |
| Other (as needed)        |       |             |            | 0.00 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Actual cost to register as an APO. 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 \$500

**TOTAL** \$21

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 CN602447062, RN108638545, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN602447062, ESPINOZA STONE, INC. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN108638545, Espinoza Stone Goldthwaite (Site No. 2) **Classification:** N/A **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 470 EAST COUNTY ROAD 427 IN GOLDTHWAITE, MILLS COUNTY, TEXAS

**TCEQ Region:** REGION 09 - WACO

**ID Number(s):** WATER QUALITY NON PERMITTED ID NUMBER R09108638545

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** August 05, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 05, 2010 to August 05, 2015

## **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? NO
- 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

**THIS PAGE INTENTIONALLY LEFT BLANK**



the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes Respondent registered Site No. 1 as an APO as of February 8, 2016.

## II. ALLEGATIONS

1. During an investigation of Site No. 1 on April 30, 2015, an investigator documented that Respondent failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d). Specifically, APO Registration No. AP0000606 expired on July 8, 2014, and Respondent continued to operate.
2. During an investigation of Site No. 2 on June 30, 2015, an investigator documented that Respondent failed to register Site No. 2 as an APO not later than 10 business days before the beginning date of regulated activities, in violation of 30 TEX. ADMIN. CODE § 342.25(b).

## III. DENIALS

Respondent generally denies each Allegation in Section II.

## IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: ESPINOZA STONE, INC., Docket No. 2015-0997-WQ-E" to:

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

2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, submit an application to register Site No. 2 as an APO, in accordance with 30 TEX. ADMIN. CODE § 342.25.
  - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Water Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Sites' operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

6. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within the TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
9. The effective date of this Order is the date it is signed by the commission. 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

\_\_\_\_\_  
Date

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

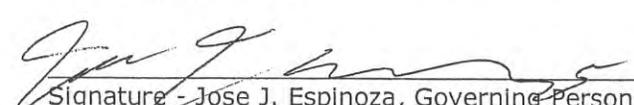
  
\_\_\_\_\_  
Date

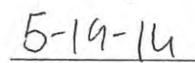
I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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
- The TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature - Jose J. Espinoza, Governing Person  
ESPINOZA STONE, INC.  
P.O. Box 274  
Jarrell, Texas 76537

  
\_\_\_\_\_  
Date

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_