

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 56520
Texas Materials Group, Inc. fka Oldcastle Materials Texas, Inc.
RN104992276
Docket No. 2018-1115-AIR-E

Order Type:
Agreed Order

Media:
AIR

Small Business:
No

Location(s) Where Violation(s) Occurred: 14900 State Highway 121,
Frisco, Collin County (the "Plant")

Type of Operation:
hot mix asphalt plant

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	Prior proposed agreed order remanded 3/10/2021
Interested Third Parties:	Neighbors to plant, represented by David Cabrales

Texas Register Publication Date: April 22, 2022

Comments Received: March 28, 2022

Penalty Information

Total Penalty Assessed: \$45,000

Total Paid to General Revenue: \$45,000

Total Due to General Revenue: \$0

Compliance History Classifications:

Person/CN - Satisfactory
Site/RN - High

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): See below

Complaint Information:

Complainants alleged smoke and odors coming from the Facility. These 48 complaints were received by the TCEQ via telephone and email on the dates outlined below:

April 30, 2018	Incident No. 283053
May 2, 2018	Incident Nos. 283174; 283175
May 9, 2018	Incident Nos. 283527; 283528; 283529; 283530; 283532; 283533; 283534; 283535; 283536; 283537; 283538; 283539; 283540; 283659; 283661; 283662; 283668
May 10, 2018	Incident Nos. 283526; 283531; 283655; 283656; 283657; 283658; 283660; 283663; 283664; 283665; 283666; 283667; 283669; 283670; 283671; 283672; 283673; 283674
May 11, 2018	Incident No. 283807
May 12, 2018	Incident No. 283730; 283732; 283733
May 14, 2018	Incident Nos. 283731; 283734; 283889
May 24, 2018	Incident Nos. 285230; 285233
May 30, 2018	Incident No. 285470

Date(s) of Investigation: May 10, 2018, through May 24, 2018

Date(s) of NOV(s): N/A

Date(s) of NOE(s): July 24, 2018

Violation Information

1. Failed to maintain the mix temperature of the asphalt concrete below 325 degrees Fahrenheit (“F”). Specifically, the asphalt concrete mix exceeded 325°F outside the 20-minute periods allowed for start-up or shutdown by an average of approximately 14°F on May 17 and August 18, 2017, and February 6 and 15, March 1 and 16, April 12 and 30, and May 2, 10, 12, 14, and 15, 2018 [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(c), and New Source Review (“NSR”) Permit No. 8597, Special Condition (“SC”) No. 6.B.];
2. Failed to maintain records containing information and data sufficient to demonstrate compliance with the permit. Specifically, the production records were not maintained on a rolling 24-month period and contained inconsistencies concerning the amounts of anti-strip, Recycled Asphalt Products, and Recycled Asphalt Shingles that were used as well as other individual ingredients. The records for the temperature of the mix were missing dates, had multiple production charts with the same date but also indicated hours of operation that did not match the corresponding information on other records, reflected operation during nighttime hours due to the incorrect placement of the temperature charts, and made it difficult to determine compliance when the ink needle was placed on the chart too early before startup and left on the chart after shutdown. The records for the repairs and maintenance of all pollution abatement equipment only documented for the maintenance and repair activities for the baghouse and the last maintenance activity was performed on January 30, 2017. The records for the concentrations of asphalt additives used were not made fully or timely available [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(b)(2)(E)(i) and (c), and NSR Permit No. 8597, SC No. 14.]; and
3. Failed to prevent nuisance odor conditions. Specifically, on May 9, 10, 11, and 15, 2018, TCEQ staff conducted odor surveys at residential off-site locations at complainant sites or equal distance, and they detected moderate to strong asphalt odors. Additionally, the TCEQ received complaints reflecting the occurrence of asphalt odors causing health effects (e.g., headaches, coughing, burning eyes or throat) on April 30, and May 1, 2, 7, 9, 10, 12, and 14, 2018, occurring during times and conditions confirmed by TCEQ to be consistent with Respondent’s operations. Accordingly, TCEQ staff confirmed directly and with complaint information the occurrence of nuisance odor conditions originating from Respondent’s Plant [TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), and 30 TEX. ADMIN. CODE § 101.4.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Temporarily ceased operating the Plant, by August 10, 2018; and
2. Agreed and stipulated to the Executive Director that Respondent (including its affiliates, assigns, and successors in interest) will never again engage in hot mix asphalt operations at 14900 State Highway 121 in Frisco, Collin County, Texas, or in its surrounding neighborhoods, Turnbridge Manor and Hunters Creek.

Technical Requirements:

1. Immediately submit a request to the TCEQ to void its NSR Permit No. 8597, thereby cancelling its authorization.
2. Within 15 days submit written certification to demonstrate compliance with Technical Requirement No. 1.

Litigation Information

Date Petition(s) Filed: September 13, 2019
Date Green Card(s) Signed: September 16, 2019
Date Answer(s) Filed: October 2, 2019
SOAH Referral Date: August 7, 2020
Hearing Date(s):
 Preliminary hearing: October 8, 2020 (waived)
 Evidentiary hearing: March 31, 2021 (scheduled)
Settlement Date: March 28, 2022 (after 3/10/2021 Commission Agenda)

Contact Information

TCEQ Attorneys: Jess Robinson, Litigation Division, (512) 239-3400
 Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Michaelle Garza, Enforcement Division, (210) 403-4076
TCEQ Regional Contact: Kimberli Fowler, Dallas/Fort Worth Regional Office, (817) 588-5800
Respondent Contact: Aaron Price, President, Texas Materials Group, Inc. fka Oldcastle Materials Texas, Inc., 1320 Arrow Point Drive, Suite 307, Cedar Park, Texas 78613
Respondent's Attorney: Sam Ballard, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Aug-2018	Screening	10-Aug-2018	EPA Due	
	PCW	24-Jan-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.		
Reg. Ent. Ref. No.	RN104992276		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	56520	No. of Violations	3
Docket No.	2018-1115-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michaelle Garza
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$45,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustments for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,632	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$19,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$45,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$45,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$45,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$45,000
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Screening Date 10-Aug-2018

Docket No. 2018-1115-AIR-E

PCW

Respondent Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.

Policy Revision 4 (April 2014)

Case ID No. 56520

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104992276

Media [Statute] Air

Enf. Coordinator Michaelle Garza

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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%
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)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustments 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 10-Aug-2018

Docket No. 2018-1115-AIR-E

PCW

Respondent Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.

Policy Revision 4 (April 2014)

Case ID No. 56520

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104992276

Media [Statute] Air

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), New Source Review ("NSR") Permit No. 8597, Special Conditions ("SC") No. 6.B, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the mix temperature of the asphalt concrete below 325 degrees Fahrenheit ("°F"). Specifically, the asphalt concrete mix exceeded 325°F outside the 20-minute periods allowed for start-up or shutdown by an average of approximately 14°F on May 17 and August 18, 2017, and February 6 and 15, March 1 and 16, April 12 and 30, and May 2, 10, 12, 14, and 15, 2018.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4 13 Number of violation days

daily		Violation Base Penalty \$5,000
weekly		
monthly		
quarterly	x	
semiannual		
annual		
single event		

Four quarterly events are recommended for the instances of noncompliance that occurred on May 15, 2017, August 18, 2017, February 6, 2018 to May 2, 2018, and May 10, 2018 to May 15, 2018.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,218

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.
Case ID No. 56520
Reg. Ent. Reference No. RN104992276
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$8,000	17-May-2017	1-Jun-2020	3.04	\$1,218	n/a	\$1,218

Notes for DELAYED costs

Estimated cost to conduct a stack test demonstrating that the mix temperature of the asphalt concrete is maintained below 325 °F and that the opacity of emissions from the drum dryer fabric filter baghouse stack are maintained below 5% averaged over a six-minute period. The Date Required is the date of the first temperature exceedance and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$8,000

TOTAL \$1,218

Screening Date 10-Aug-2018

Docket No. 2018-1115-AIR-E

PCW

Respondent Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.

Policy Revision 4 (April 2014)

Case ID No. 56520

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104992276

Media [Statute] Air

Enf. Coordinator Michaëlle Garza

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(E)(i) and (c), NSR Permit No. 8597, SC No. 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain records containing information and data sufficient to demonstrate compliance with the permit. Specifically, the production records were not maintained on a rolling 24-month period and contained inconsistencies concerning the amounts of anti-strip, Recycled Asphalt Products, and Recycled Asphalt Shingles that were used as well as other individual ingredients. The records for the temperature of the mix were missing dates, had multiple production charts with the same date but also indicated hours of operation that did not match the corresponding information on other records, reflected operation during nighttime hours due to the incorrect placement of the temperature charts, and made it difficult to determine compliance when the ink needle was placed on the chart too early before startup and left on the chart after shutdown. The records for the repairs and maintenance of all pollution abatement equipment only documented for the maintenance and repair activities for the baghouse and the last maintenance activity was performed on January 30, 2017. The records for the concentrations of asphalt additives used were not made fully or timely available.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 2.5%

Matrix Notes

Approximately 50% of the rule requirement was not met.

Adjustment \$24,375

\$625

Violation Events

Number of Violation Events 4 Number of violation days 92

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Four single events are recommended for the four deficient/inaccurate records.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$274

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.
Case ID No. 56520
Reg. Ent. Reference No. RN104992276
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	\$1,500	10-May-2018	2-Jan-2022	3.65	\$274	n/a	\$274
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records for the hourly and annual production rates, the temperature of the mix, the repairs and maintenance of all pollution abatement equipment, and the concentrations of asphalt additives used that contain information and data sufficient to demonstrate compliance with NSR Permit No. 8597. The Date Required is the investigation date and the Final Date is the estimated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$274

Screening Date 10-Aug-2018

Docket No. 2018-1115-AIR-E

PCW

Respondent Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.

Policy Revision 4 (April 2014)

Case ID No. 56520

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104992276

Media [Statute] Air

Enf. Coordinator Michaelle Garza

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description

Failed to prevent nuisance odor conditions. Specifically, on May 9, 10, 11, and 15, 2018, TCEQ staff conducted odor surveys at residential off-site locations at complainant sites or equal distance, and they detected moderate to strong asphalt odors. Additionally, the TCEQ received complaints reflecting the occurrence of asphalt odors causing health effects (e.g., headaches, coughing, burning eyes or throat) on April 30, and May 1, 2, 7, 9, 10, 12, and 14, 2018, occurring during times and conditions confirmed by TCEQ to be consistent with Respondent's operations. Accordingly, TCEQ staff confirmed directly and with complaint information the occurrence of nuisance odor conditions originating from Respondent's Plant.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 10

10 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$37,500

Ten 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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$37,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$140

Violation Final Penalty Total \$37,500

This violation Final Assessed Penalty (adjusted for limits) \$37,500

Economic Benefit Worksheet

Respondent Texas Materials Group, Inc. f/k/a Oldcastle Materials Texas, Inc.
Case ID No. 56520
Reg. Ent. Reference No. RN104992276
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Apr-2018	10-Aug-2018	0.28	\$140	n/a	\$140

Notes for DELAYED costs

Estimated cost to cease all operations at the Plant until such time that an Odor Control Plan is developed and implemented in order to prevent odors from the Plant from causing nuisance odor conditions at impact off-site receptors. The Date Required is the first date odors were detected. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$140

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

Compliance History Report for CN600317473, RN104992276, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN600317473, Texas Materials Group, Inc. (f/k/a Oldcastle Materials Texas, Inc.) **Classification:** SATISFACTORY **Rating:** 1.51

Regulated Entity: RN104992276, HOT MIX PLANT NO 1 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 14900 STATE HIGHWAY 121, FRISCO, TX 75035-4604, COLLIN COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): **AIR NEW SOURCE PERMITS** ACCOUNT NO. 908597A **AIR NEW SOURCE PERMITS** PERMIT 8597
AIR NEW SOURCE PERMITS REGISTRATION 23016 **AIR NEW SOURCE PERMITS** AFS NO. 4808500175
AIR EMISSIONS INVENTORY ACCOUNT NUMBER 908597A

Compliance History Period: September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

Date Compliance History Report Prepared: January 28, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 28, 2014 to January 28, 2019

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

Name: Trina Grieco

Phone: (210) 403-4006

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

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.):

Item 1	August 06, 2014	(1179487)
Item 2	August 08, 2014	(1179957)
Item 3	January 17, 2015	(1192958)
Item 4	March 06, 2015	(1185251)
Item 5	March 13, 2015	(1222340)
Item 6	July 24, 2018	(1499705)

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
TEXAS MATERIALS GROUP, INC. FKA
OLDCASTLE MATERIALS TEXAS, INC.;
RN104992276

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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2018-1115-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Materials Group, Inc. fka Oldcastle Materials Texas, Inc. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Sam Ballard of the law firm Lloyd Gosselink Rochelle & Townsend, P.C., together stipulate that:

1. Respondent owns and operates a hot mix asphalt plant located at 14900 State Highway 121 in Frisco, Collin County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and Respondent agree the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to the TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of forty-five thousand dollars (\$45,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid forty-five thousand dollars (\$45,000.00) of the penalty.
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 that Respondent has performed the following actions:
 - a. Temporarily ceased operating the Plant, by August 10, 2018; and
 - b. Agreed and stipulated to the Executive Director that Respondent (including its affiliates, assigns, and successors in interest) will never again engage in hot mix asphalt operations at 14900 State Highway 121 in Frisco, Collin County, Texas, or in its surrounding neighborhoods, Turnbridge Manor and Hunters Creek.

II. ALLEGATIONS

1. During an investigation conducted on and around May 10 through 24, 2018, an investigator documented that Respondent:
 - a. Failed to maintain the mix temperature of the asphalt concrete below 325 degrees Fahrenheit ("F"), in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(c), and New Source Review ("NSR") Permit No. 8597, Special Condition ("SC") No. 6.B. Specifically, the asphalt concrete mix exceeded 325°F outside the 20-minute periods allowed for start-up or shutdown by an average of approximately 14°F on May 17 and August 18, 2017, and February 6 and 15, March 1 and 16, April 12 and 30, and May 2, 10, 12, 14, and 15, 2018;
 - b. Failed to maintain records containing information and data sufficient to demonstrate compliance with the permit, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(b)(2)(E)(i) and (c), and NSR Permit No. 8597, SC No. 14. Specifically, the production records were not maintained on a rolling 24-month period and contained inconsistencies concerning the amounts of anti-strip, Recycled Asphalt Products, and Recycled Asphalt Shingles that were used as well as other individual ingredients. The records for the temperature of the mix were missing dates, had multiple production charts with the same date but also indicated hours of operation that did not match the corresponding information on other records, reflected operation during nighttime hours due to the incorrect placement of the temperature charts, and made it difficult to determine compliance when the ink needle was placed on the chart too early before startup and left on the chart after shutdown. The records for the repairs and maintenance of all pollution abatement equipment only documented for the maintenance and repair activities for the baghouse and the last maintenance activity was performed on January 30, 2017. The records for the concentrations of asphalt additives used were not made fully or timely available; and
 - c. Failed to prevent nuisance odor conditions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), and 30 TEX. ADMIN. CODE § 101.4. Specifically, on May 9, 10, 11, and 15, 2018, TCEQ staff conducted odor surveys at residential off-site locations at complainant sites or equal distance, and they detected moderate to strong asphalt odors. Additionally, the TCEQ received complaints reflecting the occurrence of asphalt odors causing health effects (e.g., headaches, coughing, burning eyes or throat) on April 30, and May 1, 2, 7, 9, 10, 12, and 14, 2018, occurring during times and conditions confirmed by TCEQ to be consistent with Respondent's operations. Accordingly, TCEQ staff confirmed directly and with complaint information the occurrence of nuisance odor conditions originating from Respondent's Plant.

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 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.

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, submit a request to the TCEQ to void its NSR Permit No. 8597, thereby cancelling its authorization.
 - b. Within 15 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:

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

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 Plant 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

Erin E. Chanallop

5-2-22

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 - Aaron Price, President
Texas Materials Group, Inc.
1320 Arrow Point Drive, Suite 307
Cedar Park, Texas 78613

5/28/2022

Date

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



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

2021 MCKINNEY AVENUE, SUITE 1600
DALLAS, TX 75201-3340
214.999.3000 TEL
214.999.4667 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
214.999.4359
dcabrales@foley.com

CLIENT/MATTER NUMBER
126681-0101

March 28, 2022

Electronic Filing

The Honorable TCEQ Commissioners
The Texas Commission on Environmental Quality
12100 Park 35 Cir.
Austin, Texas 78753

Re: Letter in Support - Consideration of an Agreed Order assessing
administrative penalties against and requiring certain actions of Texas
Materials Group, Inc. fka Oldcastle Materials Texas, Inc. in Collin County;
RN104992276; NSR Air Permit No. 8597.

To the Honorable TCEQ Commissioners,

This law firm represents certain residents of the Turnbridge Manor and Hunters Creek
neighborhoods ("the neighborhood residents"), located in Frisco, Texas. My clients and I have been
involved in filing written comments on the pending enforcement matter regarding alleged violations
at Texas Materials Group, Inc.'s ("TMG") Hot Mix Plant No. 1 site, also located in Frisco, Texas
("the site") near the Turnbridge Manor and Hunters Creek neighborhoods. Attached as "Exhibit A"
is a list of the residents that I represent, all of whom have filed comments with the TCEQ on this
matter. As noted on "Exhibit A," my law firm also represents Randi Haluptzok and the other
residents whom previously offered oral comments during the TCEQ Commissioners' February 24,
2021 and/or March 10, 2021 agendas ("the agendas") concerning the proposed Agreed Order on this
matter, attached hereto as "Exhibit B." To date, those written and oral comments have been in
opposition to the proposed Agreed Order. However, based on a change of circumstances between
TMG and the neighborhood residents, the purpose of this letter is to now offer support for the
proposed Agreed Order, and to recommend that the Honorable Commissioners approve it.

Following the agendas on this matter, TMG has worked with me and my clients to address
their concerns with the proposed Agreed Order and to resolve the dispute between them. To that end,
TMG has committed, following Commission approval of the proposed Agreed Order, to do the
following: (1) close its Hot Mix Plant No. 1 site; (2) rescind, withdraw, or otherwise cancel its NSR
Air Permit No. 8597; and (3) agree to not permit or operate an asphalt plant at the site in the future.
By agreeing to take these significant actions, TMG has sufficiently addressed my clients' previously
raised concerns with the proposed Agreed Order.

AUSTIN
BOSTON
CHICAGO
DALLAS
DENVER

DETROIT
HOUSTON
JACKSONVILLE
LOS ANGELES
MADISON

MEXICO CITY
MIAMI
MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SALT LAKE CITY
SAN DIEGO
SAN FRANCISCO
SILICON VALLEY

TALLAHASSEE
TAMPA
WASHINGTON, D.C.
BRUSSELS
TOKYO



FOLEY & LARDNER LLP

The Honorable TCEQ Commissioners

March 28, 2022

Page 2

Therefore, on behalf of my clients listed on "Exhibit A," which represents the complete list of commenters, I hereby: (1) withdraw any and all previously raised comments, whether written or oral, in opposition to TMG or the proposed Agreed Order; (2) support TMG's commitment to not operate an asphalt plant at the site; and (3) support Commission approval of the proposed Agreed Order. Those residents who offered oral comments at the agendas have signed this letter. The other residents have authorized me to act on their behalf.

The neighborhood residents no longer have any objection to the proposed Agreed Order or TMG. On behalf of my clients, I appreciate your consideration of this letter in support of the proposed Agreed Order.

Sincerely,

David G. Cabrales

Agreed:

Elicia Patrick

Nicholas Hagenhoff

Ian Schneider

Randi Haluptzok

Steve Graff

cc: Jess Robinson, Staff Attorney, TCEQ Litigation Division
Sheldon Wayne, TCEQ Office of Public Interest Counsel
Sam Ballard, Lloyd Gosselink Rochelle & Townsend, P.C.
Randi Haluptzok, Cheryl Rivera Smith

EXHIBIT A

EXHIBIT A

Turnbridge Manor and Hunters Creek Neighborhood

Resident List

- Barks, Katherine
- Baxter, Jennifer
- Bishop, Nicole
- Bodalia, Ashwin A.
- Bretl, Molly
- Burke, Jo
- Chester, Christopher
- Classe, John C.
- Dixon, Kirsten Elizabeth
- Eldridge, Maria Neriette
- Garrison, Colleen P.
- Garrison, Joseph
- Garza, Patrick
- Gelli, Srikanth
- Graff, Steve
- Hagenhoff, Nicholas
- Haluptzok, Randi F.
- Harrison, Ben
- Henderson, Brad
- Hunter, Jennifer M.
- Kresek-Lis, Carolyn
- Kuehl, Kristina
- LeBrun, Glenn

- Leitz, Joanne
- Lucas, Rebecca
- McCormick, Lee Anthony
- Middleton, Thomas
- Monroe, Scott
- Narasimhan, Lakshmi
- Nickell, Kenton
- Oushalkas, Tom
- Panchanathan, Gopi
- Patrick, Elicia Kay
- Peramaneni, Free Satya S.
- Purvis, Ashley
- Radford, Kellam
- Ragle, Rayanne
- Schneider, Dawnmarie
- Schneider, Ian
- Sharma, Gitanjali
- Shaw, Curtis
- Shetty, Namrata
- Snow, Amy
- Soulakis, Jana C.
- Spector, Ashley
- Squire, Glenn

- Squire, Helen
- Stefan, Jon
- Sutura, Jennifer
- Towne, Terra
- Vetter, Kristie
- Voehringer, Jenny
- Westermann, Randa

EXHIBIT B

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
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1. Respondent owns and operates a hot mix asphalt plant located at 14900 State Highway 121 in Frisco, Collin County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and Respondent agree the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to the TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of forty-five thousand dollars (\$45,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid forty-five thousand dollars (\$45,000.00) of the penalty.
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 that Respondent has performed the following actions:
 - a. Temporarily ceased operating the Plant, by August 10, 2018; and
 - b. Agreed and stipulated to the Executive Director that Respondent (including its affiliates, assigns, and successors in interest) will never again engage in hot mix asphalt operations at 14900 State Highway 121 in Frisco, Collin County, Texas, or in its surrounding neighborhoods, Turnbridge Manor and Hunters Creek.

II. ALLEGATIONS

1. During an investigation conducted on and around May 10 through 24, 2018, an investigator documented that Respondent:
 - a. Failed to maintain the mix temperature of the asphalt concrete below 325 degrees Fahrenheit ("F"), in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(c), and New Source Review ("NSR") Permit No. 8597, Special Condition ("SC") No. 6.B. Specifically, the asphalt concrete mix exceeded 325°F outside the 20-minute periods allowed for start-up or shutdown by an average of approximately 14°F on May 17 and August 18, 2017, and February 6 and 15, March 1 and 16, April 12 and 30, and May 2, 10, 12, 14, and 15, 2018;
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 - c. Failed to prevent nuisance odor conditions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), and 30 TEX. ADMIN. CODE § 101.4. Specifically, on May 9, 10, 11, and 15, 2018, TCEQ staff conducted odor surveys at residential off-site locations at complainant sites or equal distance, and they detected moderate to strong asphalt odors. Additionally, the TCEQ received complaints reflecting the occurrence of asphalt odors causing health effects (e.g., headaches, coughing, burning eyes or throat) on April 30, and May 1, 2, 7, 9, 10, 12, and 14, 2018, occurring during times and conditions confirmed by TCEQ to be consistent with Respondent's operations. Accordingly, TCEQ staff confirmed directly and with complaint information the occurrence of nuisance odor conditions originating from Respondent's Plant.

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 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.

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 - a. Immediately upon the effective date of this Order, submit a request to the TCEQ to void its NSR Permit No. 8597, thereby cancelling its authorization.
 - b. Within 15 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.”

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

and:

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

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 Plant 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 - Aaron Price, President
Texas Materials Group, Inc.
1320 Arrow Point Drive, Suite 307
Cedar Park, Texas 78613

3/28/2022
_____ Date

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