

Executive Summary – Enforcement Matter – Case No. 61579
Ash Grove Cement Company
RN100225978
Docket No. 2021-1507-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Ash Grove Cement, 900 Gifco Road, one and a half miles west of U.S. Highway 67,
Midlothian, Ellis County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2023-0491-PWS-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 10, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,082

Amount Deferred for Expedited Settlement: \$5,416

Total Paid to General Revenue: \$10,833

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$10,833

Name of SEP: Texas Water Development Board (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 24, 2021

Date(s) of NOE(s): November 3, 2021

**Executive Summary – Enforcement Matter – Case No. 61579
Ash Grove Cement Company
RN100225978
Docket No. 2021-1507-IWD-E**

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids, daily maximum temperature rise, chlorine, daily average flow, and pH [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002427000, Effluent Limitations and Monitoring Requirements Outfall 001 Nos. 1 and 2 and Outfall 101 No. 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002427000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations to demonstrate compliance.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mark Gamble, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2587; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231

Respondent: Marco Gonzalez, Plant Manager, Ash Grove Cement Company, P.O. Box 520, Midlothian, Texas 76065

Ben Blankenship, Vice President, Ash Grove Cement Company, P.O. Box 520, Midlothian, Texas 76065

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	15-Nov-2021			
	PCW	13-Jan-2023	Screening	17-Nov-2021	EPA Due

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

CASE INFORMATION			
Enf./Case ID No.	61579	No. of Violations	2
Docket No.	2021-1507-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mark Gamble
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$17,250
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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	57.0% Adjustment	Subtotals 2, 3, & 7	\$9,832
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Notes: Enhancement for three months of self-reported effluent violations, one NOV with dissimilar violations, and two agreed orders containing a denial of liability.

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: \$1,652
 Estimated Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$27,082
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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	\$27,082
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$27,082
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DEFERRAL	20.0%	Reduction	Adjustment	-\$5,416
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$21,666
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Screening Date 17-Nov-2021

Docket No. 2021-1507-IWD-E

PCW

Respondent Ash Grove Cement Company

Policy Revision 5 (January 28, 2021)

Case ID No. 61579

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100225978

Media Water Quality

Enf. Coordinator Mark Gamble

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>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 57%

>> 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

Enhancement for three months of self-reported effluent violations, one NOV with dissimilar violations, and two agreed orders containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 57%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 57%

Screening Date 17-Nov-2021

Docket No. 2021-1507-IWD-E

PCW

Respondent Ash Grove Cement Company

Policy Revision 5 (January 28, 2021)

Case ID No. 61579

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100225978

Media Water Quality

Enf. Coordinator Mark Gamble

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002427000, Effluent Limitations and Monitoring Requirements Outfall 001 Nos. 1 and 2

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR			Harm			
	Release	Major	Moderate	Minor		
	Actual			x	Percent	15.0%
	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 \$21,250

\$3,750

Violation Events

Number of Violation Events 4 153 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four quarterly events are recommended for the quarters containing the monthly monitoring periods of September 2020, January, March, May, and June 2021.

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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,652

Violation Final Penalty Total \$23,550

This violation Final Assessed Penalty (adjusted for limits) \$23,550

Economic Benefit Worksheet

Respondent Ash Grove Cement Company
Case ID No. 61579
Reg. Ent. Reference No. RN100225978
Media Violation No. Water Quality
 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)	\$10,000	30-Sep-2020	19-Jan-2024	3.30	\$1,652	n/a	\$1,652

Notes for DELAYED costs
 Estimated Other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, 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 \$10,000

TOTAL \$1,652

Screening Date 17-Nov-2021 **Docket No.** 2021-1507-IWD-E **PCW**
Respondent Ash Grove Cement Company *Policy Revision 5 (January 28, 2021)*
Case ID No. 61579 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN100225978
Media Water Quality
Enf. Coordinator Mark Gamble

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0002427000, Effluent Limitations and Monitoring Requirements Outfall 101 No. 2
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential			x	Percent 3.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 3 91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,250

Three single events are recommended for the monthly monitoring periods of March, April, and June 2021.

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 \$2,250

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$3,533

This violation Final Assessed Penalty (adjusted for limits) \$3,533

Economic Benefit Worksheet

Respondent Ash Grove Cement Company
Case ID No. 61579
Reg. Ent. Reference No. RN100225978
Media Violation No. Water Quality
 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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit captured in Worksheet No. 1.

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

TOTAL

Ash Grove Cement Company
Docket No. 2021-1507-IWD-E
TPDES Permit No. WQ0002427000
Case No. 61579

Effluent Violation Table

	Outfall 001						Outfall 101
	Flow	pH	Total Suspended Solids			Temperature Rise	Chlorine
	Daily Average	Maximum	Daily Average Conc.	Daily Maximum Conc.	Daily Maximum Loading	Daily Maximum	Monthly Minimum Conc.
Monitoring Period	Limit = 0.3 MGD	Limit = 9 SU	Limit = 25 mg/L	Limit = 45 mg/L	Limit = 129 lbs/day	Limit = 5.4 °F	Limit = 1 mg/L
September 2020	c	9.6	c	51.8	351.97	12	c
January 2021	c	c	39.34	55	c	c	c
March 2021	0.672	c	34	c	244.9	c	0.3
April 2021	c	c	c	c		c	0.2
May 2021	0.41	c	55.07	295	2,837	c	c
June 2021	c	c	26.3	53	298.99	c	0.9

Conc. = concentration MGD = million gallons per day SU = standard units
mg/L = milligrams per liter lbs/day = pounds per day c = compliant
°F = degrees Fahrenheit



Compliance History Report

Compliance History Report for CN604252080, RN100225978, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN604252080, Ash Grove Cement Company **Classification:** SATISFACTORY **Rating:** 2.69

Regulated Entity: RN100225978, ASH GROVE CEMENT **Classification:** SATISFACTORY **Rating:** 2.69

Complexity Points: 24 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 900 Gifco Road, one and a half miles west of United States Highway 67, Midlothian, Ellis County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER ED00340	AIR OPERATING PERMITS PERMIT 1054
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0700075	AIR NEW SOURCE PERMITS PERMIT 1
AIR NEW SOURCE PERMITS PERMIT 6230	AIR NEW SOURCE PERMITS ACCOUNT NUMBER ED00340
AIR NEW SOURCE PERMITS REGISTRATION 144863	AIR NEW SOURCE PERMITS AFS NUM 4813900002
AIR NEW SOURCE PERMITS REGISTRATION 71845	AIR NEW SOURCE PERMITS REGISTRATION 30262
AIR NEW SOURCE PERMITS REGISTRATION 30263	AIR NEW SOURCE PERMITS REGISTRATION 30264
AIR NEW SOURCE PERMITS REGISTRATION 30265	AIR NEW SOURCE PERMITS REGISTRATION 110838
AIR NEW SOURCE PERMITS REGISTRATION 110832	AIR NEW SOURCE PERMITS REGISTRATION 110814
AIR NEW SOURCE PERMITS REGISTRATION 111007	AIR NEW SOURCE PERMITS REGISTRATION 110837
AIR NEW SOURCE PERMITS REGISTRATION 140713	AIR NEW SOURCE PERMITS REGISTRATION 111008
AIR NEW SOURCE PERMITS REGISTRATION 110828	AIR NEW SOURCE PERMITS REGISTRATION 33529
AIR NEW SOURCE PERMITS REGISTRATION 145866	AIR NEW SOURCE PERMITS REGISTRATION 157450
TIRES REGISTRATION 76905	PETROLEUM STORAGE TANK REGISTRATION
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION 79200
REGISTRATION 11627	STORMWATER PERMIT TXR05DW26
WASTEWATER PERMIT WQ0002427000	WASTEWATER EPA ID TX0083437
AIR EMISSIONS INVENTORY ACCOUNT NUMBER ED00340	POLLUTION PREVENTION PLANNING ID NUMBER P01473
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD007926496	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 32941
TAX RELIEF ID NUMBER 17749	

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: January 13, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 13, 2018 to January 13, 2023

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

Name: Katelyn Tubbs

Phone: (512) 239-2512

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:

- | | | | |
|---|----------------------------|----------------------------|---------------------------------------|
| 1 | Effective Date: 05/04/2018 | ADMINORDER 2017-0167-IWD-E | (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | | |

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

Rqmt Prov: Effluent Limits PERMIT

Description: Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002427000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, for Outfall No. 001 and for Outfall No. 101

2 Effective Date: 09/28/2020 ADMINORDER 2020-0415-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP
SC 1 PERMIT

Special Terms and Conditions No. 12 OP

Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 1,767 pounds of ammonia as fugitive emissions, during an emissions event (Incident No. 322270) that occurred on October 6, 2019 and lasted seven hours and 45 minutes. The emissions event occurred when the injection lances for the aqueous ammonium hydroxide into the Selective Non-Catalytic Reduction System were not reattached during the kiln startup process, resulting in the release to the atmosphere.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP
Special Terms and Conditions No. 2.F OP

Description: Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event. Specifically, the final record for Incident No. 322270 was due by October 20, 2019, but was not submitted until November 7, 2019.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	February 16, 2018	(1487822)	Item 28	November 14, 2019	(1576083)
Item 2	March 16, 2018	(1491509)	Item 29	November 15, 2019	(1620147)
Item 3	April 13, 2018	(1494757)	Item 30	December 20, 2019	(1627494)
Item 4	May 18, 2018	(1501709)	Item 31	January 13, 2020	(1635127)
Item 5	June 27, 2018	(1483775)	Item 32	February 20, 2020	(1641742)
Item 6	July 03, 2018	(1508802)	Item 33	March 18, 2020	(1648256)
Item 7	August 10, 2018	(1506319)	Item 34	May 20, 2020	(1661174)
Item 8	September 18, 2018	(1528364)	Item 35	June 23, 2020	(1592983)
Item 9	September 19, 2018	(1511792)	Item 36	August 19, 2020	(1681423)
Item 10	October 11, 2018	(1504802)	Item 37	September 18, 2020	(1688000)
Item 11	November 20, 2018	(1542537)	Item 38	November 04, 2020	(1685190)
Item 12	November 26, 2018	(1506320)	Item 39	November 18, 2020	(1715672)
Item 13	December 18, 2018	(1546300)	Item 40	December 17, 2020	(1715673)
Item 14	January 30, 2019	(1540669)	Item 41	January 19, 2021	(1715674)
Item 15	January 31, 2019	(1541006)	Item 42	January 20, 2021	(1698298)
Item 16	February 08, 2019	(1544589)	Item 43	April 01, 2021	(1728751)
Item 17	March 19, 2019	(1562972)	Item 44	June 23, 2021	(1711754)
Item 18	April 18, 2019	(1572921)	Item 45	August 20, 2021	(1758185)
Item 19	May 20, 2019	(1585444)	Item 46	October 14, 2021	(1764985)
Item 20	June 03, 2019	(1569062)	Item 47	October 20, 2021	(1777902)
Item 21	June 15, 2019	(1585445)	Item 48	November 12, 2021	(1784701)
Item 22	July 19, 2019	(1594282)	Item 49	December 20, 2021	(1791731)
Item 23	August 12, 2019	(1555751)	Item 50	January 19, 2022	(1799570)
Item 24	August 20, 2019	(1600573)	Item 51	February 18, 2022	(1765319)
Item 25	September 20, 2019	(1607478)	Item 52	March 08, 2022	(1814456)
Item 26	October 11, 2019	(1614356)	Item 53	April 06, 2022	(1821025)
Item 27	November 07, 2019	(1596606)	Item 54	May 05, 2022	(1829864)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ASH GROVE CEMENT COMPANY
RN100225978

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1507-IWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located at 900 Gifco Road, one and a half miles west of United States Highway 67 in Midlothian, Ellis County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the 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 the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$27,082 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$10,833 of the penalty and \$5,416 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$10,833 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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 that the Respondent has not complied with one or more of the terms or conditions 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 compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During a record review for the Facility conducted on August 24, 2021, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002427000, Effluent Limitations and Monitoring Requirements Outfall 001 Nos. 1 and 2 and Outfall 101 No. 2, as shown in the effluent violation table below:

Effluent Violation Table							
Monitoring Period	Outfall 001						Outfall 101
	Flow	pH	Total Suspended Solids			Temperature Rise	Chlorine
	Daily Average	Maximum	Daily Average Conc.	Daily Maximum Conc.	Daily Maximum Loading	Daily Maximum	Monthly Minimum Conc.
Limit =	Limit =	Limit =	Limit =	Limit =	Limit =	Limit =	
September 2020	0.30 MGD	9.0 SU	25 mg/L	45 mg/L	129 lbs/day	5.4 °F	1.0 mg/L
January 2021	c	9.6	c	51.8	351.97	12	c
March 2021	c	c	39.34	55	c	c	c
April 2021	0.672	c	34	c	244.9	c	0.3
May 2021	c	c	c	c		c	0.2
June 2021	0.41	c	55.07	295	2837	c	c
	c	c	26.3	53	298.99	c	0.9

Conc. = concentration MGD = million gallons per day SU = standard units
mg/L = milligrams per liter lbs/day = pounds per day c = compliant
°F = degrees Fahrenheit

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the 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 action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ash Grove Cement Company, Docket No. 2021-1507-IWD-E" to:

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

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$10,833 of the assessed penalty is conditionally offset

based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.

3. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002427000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the 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 that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. 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.
10. 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

11/30/2023

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, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

10/20/2023

Date

Ben Blankenship

Name (Printed or typed)
Authorized Representative of
Ash Grove Cement Company

Vice President, Sales and Marketing

Title

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

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

Attachment A
Docket Number: 2021-1507-IWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Ash Grove Cement Company
Payable Penalty Amount:	\$21,666
SEP Offset Amount:	\$10,833
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Texas Water Development Board
Project Name:	<i>Water-Level Recorder Data in Every Texas County</i>
Total Project Budget:	\$997,500
Location of SEP:	Statewide; preference for Ellis County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Water Development Board** for the *Water-Level Recorder Data in Every Texas County* project (the “Project”). The Project is to purchase, install, and maintain automatic water-level recorders in unused wells in the remaining one hundred sixty-six (166) counties. The Third-Party Administrator shall give preference to installing water-level recorders initially in counties in which there are 1) no existing automatic water-level recorder wells, 2) no groundwater conservation district, or 3) groundwater conservation districts that do not have the staff and/or the financial ability to install an automatic water-level recorder. The Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent’s signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit from this SEP.

B. Environmental Benefit

The groundwater stored within Texas’ minor and major aquifers is an important natural resource that is relied upon to meet the water supply demands of Texans across the state. Many factors affect the availability of this resource including drought and increased demand. This Project will provide statewide comprehensive real-time groundwater level data to Texas counties, cities, groundwater conservation districts, water supply companies, and individual well owners.

The availability of this comprehensive data will promote awareness of the effects of drought on Texas' aquifers and assist in groundwater management planning and use throughout the state.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Water Development Board SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Water Development Board
Attention: Finance
P.O. Box 13231
Austin, Texas 78711-3231

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.