

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0317-IWD-E **TCEQ ID:** RN100211283 **CASE NO.:** 32848

**RESPONDENT NAME:** TXI Operations, LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> TXI-Streetman Plant, approximately 2.25 miles northwest of the city of Streetman on the east side of Interstate Highway 45, 1.5 miles north of the Wortham/Streetman exit, Navarro County</p> <p><b>TYPE OF OPERATION:</b> Lightweight aggregate production facility and an associated wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. George Eure, Vice President, TXI Operations, LP, Post Office Box 217, Streetman, Texas 75859  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 24, 2007</p> <p><b>Date of NOE Relating to this Case:</b> February 20, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine records review. Two violations were documented.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 01691, Effluent Limitations and Monitoring Requirement No.1].</p>	<p><b>Total Assessed:</b> \$14,445</p> <p><b>Total Deferred:</b> \$2,889  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$11,556</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent began diverting some of the discharge water to a new pond that has increased capacity and increases settlement time on August 28, 2006, began diverting all discharge water to the new pond on December 12, 2006, and returned to compliance with the permitted effluent limits on December 31, 2006.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

**TCEQ**

<b>DATES</b>	Assigned	26-Feb-2007	Screening	5-Mar-2007	EPA Due	
	PCW	6-Mar-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	TXI Operations, LP
Reg. Ent. Ref. No.	RN100211283
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	32848	No. of Violations	2	
Docket No.	2007-0317-IWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$13,500</b>
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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.

<b>Compliance History</b>	37% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$4,995</b>
Notes	A 37% enhancement is recommended for having seven NOV's for self-reported effluent data and one NOV for non-similar violations within the last five years.		

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
Notes	The Respondent does not meet the culpability criteria.			

<b>Good Faith Effort to Comply</b>	25% Reduction	<b>Subtotal 5</b>	<b>\$3,375</b>
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary			
Ordinary	X		
N/A		(mark with x)	
Notes	The Respondent returned to compliance on December 31, 2006.		

	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$217	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$4,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$15,120</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-4%	<b>Adjustment</b>	<b>-\$675</b>
Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)			
Notes	Recommended reduction in the penalty so that monthly self reported effluent violations do not overly-impact the penalty amount.		
	<b>Final Penalty Amount</b>	<b>\$14,445</b>	

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$14,445</b>
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	<b>-\$2,889</b>
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	Deferral offered for expedited settlement.		

<b>PAYABLE PENALTY</b>	<b>\$11,556</b>
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Screening Date 5-Mar-2007

Docket No. 2007-0317-IWD-E

PCW

Respondent TXI Operations, LP

Policy Revision 2 (September 2002)

Case ID No. 32848

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100211283

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 37%

>> Repeat Violator (Subtotal 3)

No

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

>> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

**Compliance History Notes**

A 37% enhancement is recommended for having seven NOVs for self-reported effluent data and one NOV for non-similar violations within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 37%

Screening Date 5-Mar-2007

Docket No. 2007-0317-IWD-E

PCW

Respondent TXI Operations, LP

Policy Revision 2 (September 2002)

Case ID No. 32848

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100211283

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 01691, Effluent Limitations and Monitoring Requirement No.1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on January 24, 2006. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate selenium to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow values were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5 Number of violation days 151

daily	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$12,500

Five monthly events are recommended for the reporting periods of December 31, 2005, January 31, 2006, February 28, 2006, March 31, 2006, and April 30, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$217

Violation Final Penalty Total \$13,375

This violation Final Assessed Penalty (adjusted for limits) \$13,375

## Economic Benefit Worksheet

**Respondent** TXI Operations, LP  
**Case ID No.** 32848  
**Reg. Ent. Reference No.** RN100211283  
**Media** Water Quality  
**Violation No.** 1

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

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$4,000	30-Nov-2005	31-Dec-2006	1.1	\$217	n/a	\$217

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the compliance date.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

TOTAL

\$217

Screening Date 5-Mar-2007

Docket No. 2007-0317-IWD-E

PCW

Respondent TXI Operations, LP

Policy Revision 2 (September 2002)

Case ID No. 32848

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100211283

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 01691, Effluent Limitations and Monitoring Requirement No.1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on January 24, 2006. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended for the November 30, 2005 reporting period.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

## Economic Benefit Worksheet

**Respondent** TXI Operations, LP  
**Case ID No.** 32848  
**Reg. Ent. Reference No.** RN100211283  
**Media** Water Quality  
**Violation No.** 2

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

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See violation no. 1.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

**Effluent Violation Table**  
 TXI Operations, LP  
 TPDES Permit No. 01691 (Outfall 001A)  
 Docket No. 2007-0317-IWD-E

Permitted Effluent Limits	Monitoring Period End Date					
	11/30/2005	12/31/05	01/31/2006	02/28/06	03/31/06	04/30/06
Total Selenium Daily Avg. 0.0157 mg/L	C	0.021	0.0246	0.0205	0.024	0.025
Total Mercury Daily Max. .00044 mg/L	.0008	C	C	C	C	C

Avg. = average	C = compliant	mg/L = milligrams per liter
Max. = maximum		



# Compliance History

Customer/Respondent/Owner-Operator: CN600125157 TXI Operations, LP Classification: AVERAGE Rating: 2.09  
 Regulated Entity: RN100211283 TXI - STREETMAN PLANT Classification: AVERAGE Site Rating: 0.38

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	NB0037F
	AIR OPERATING PERMITS	PERMIT	1117
	WASTEWATER	PERMIT	WQ0001691000
	WASTEWATER	PERMIT	TPDES0047791
	WASTEWATER	PERMIT	TX0047791
	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	37693
	AIR NEW SOURCE PERMITS	PERMIT	3025A
	AIR NEW SOURCE PERMITS	PERMIT	5337
	AIR NEW SOURCE PERMITS	PERMIT	30729
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	NB0037F
	AIR NEW SOURCE PERMITS	AFS NUM	4834900011
	AIR NEW SOURCE PERMITS	PERMIT	54324
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1077
	WASTEWATER LICENSING	LICENSE	WQ0001691000

Location: APPROXIMATELY 2.25 MILES NORTHWEST OF THE CITY OF STREETMAN ON THE EAST SIDE OF INTERSTATE HIGHWAY 45, 1.5 MILES NORTH OF THE WORTHAM/STREETMAN EXIT, NAVARRO COUNTY  
 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: March 01, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 01, 2002 to March 01, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Samuel Short Phone: (512) 239-5363

### Site Compliance History Components

- |  |     |
|--|-----|
| 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

- |    |            |          |
|----|------------|----------|
| 1  | 03/21/2002 | (183165) |
| 2  | 04/18/2002 | (183170) |
| 3  | 05/28/2002 | (183173) |
| 4  | 06/27/2002 | (183176) |
| 5  | 07/22/2002 | (183179) |
| 6  | 09/12/2002 | (183182) |
| 7  | 10/21/2002 | (183186) |
| 8  | 10/25/2002 | (183189) |
| 9  | 12/17/2002 | (183192) |
| 10 | 12/17/2002 | (183196) |
| 11 | 01/29/2003 | (183200) |
| 12 | 02/21/2003 | (183163) |
| 13 | 03/24/2003 | (183166) |
| 14 | 04/25/2003 | (183171) |

15 05/29/2003 (305909)  
 16 06/12/2003 (29052)  
 17 07/01/2003 (305910)  
 18 07/18/2003 (305911)  
 19 09/02/2003 (305912)  
 20 09/26/2003 (305913)  
 21 10/24/2003 (305914)  
 22 11/24/2003 (305915)  
 23 01/08/2004 (305916)  
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 25 03/12/2004 (305906)  
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 27 04/26/2004 (305908)  
 28 06/07/2004 (356344)  
 29 07/06/2004 (356345)  
 30 07/14/2004 (280908)  
 31 07/28/2004 (356346)  
 32 08/11/2004 (356347)  
 33 09/27/2004 (356348)  
 34 10/26/2004 (384206)  
 35 12/03/2004 (384207)  
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 37 01/28/2005 (346503)  
 38 01/31/2005 (384209)  
 39 03/09/2005 (422136)  
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 46 09/26/2005 (443037)  
 47 10/17/2005 (472630)  
 48 10/20/2005 (433414)  
 49 11/18/2005 (472631)  
 50 01/17/2006 (472633)  
 51 01/26/2006 (472632)  
 52 02/22/2006 (472628)  
 53 03/22/2006 (472629)  
 54 04/28/2006 (500974)  
 55 05/25/2006 (464296)  
 56 05/26/2006 (500975)  
 57 07/10/2006 (523142)  
 58 08/31/2006 (523143)  
 59 09/22/2006 (523144)  
 60 11/06/2006 (516932)  
 61 02/22/2007 (537788)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	06/10/2003	(29052)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.146(1)			
Description:	The facility failed to submit Title V Annual Compliance Certification before the required deadline.			
Date	10/31/2004	(384207)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2005	(472632)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2005	(472633)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			

Description:	TWC Chapter 26 26.121(a)[G]		
	Failure to meet the limit for one or more permit parameter		
Date	01/31/2006	(472628)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2006	(472629)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2006	(500974)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2006	(500975)	
Self Report?	YES		Classification Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TXI OPERATIONS, LP  
RN100211283

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

**AGREED ORDER**  
**DOCKET NO. 2007-0317-IWD-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TXI Operations, LP ("TXI") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and TXI appear before the Commission and together stipulate that:

1. TXI owns and operates a lightweight aggregate production facility and an associated wastewater treatment plant located approximately 2.25 miles northwest of the City of Streetman on the east side of Interstate Highway 45, 1.5 miles north of the Wortham/Streetman exit in Navarro County, Texas (the "Facility").
2. TXI has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and TXI agree that the Commission has jurisdiction to enter this Agreed Order, and that TXI is subject to the Commission's jurisdiction.
4. TXI received notice of the violations alleged in Section II ("Allegations") on or about February 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by TXI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fourteen Thousand Four Hundred Forty-Five Dollars (\$14,445) is assessed by the Commission in settlement of the violations alleged in Section II



("Allegations"). TXI has paid Eleven Thousand Five Hundred Fifty-Six Dollars (\$11,556) of the administrative penalty and Two Thousand Eight Hundred Eighty-Nine Dollars (\$2,889) is deferred contingent upon TXI's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If TXI fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require TXI to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and TXI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that TXI began diverting some of the discharge water to a new pond that has increased capacity and increases settlement time on August 28, 2006, began diverting all discharge water to the new pond on December 12, 2006, and returned to compliance with the permitted effluent limits on December 31, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that TXI has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, TXI is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 01691, Effluent Limitations and Monitoring Requirement No.1, as documented during a record review conducted on January 24, 2007, as indicated in the table below.

Effluent Violation Table						
Permitted Effluent Limits	Monitoring Period End Date					
	11/30/2005	12/31/05	01/31/2006	02/28/06	03/31/06	04/30/06
Total Selenium Daily Avg. 0.0157 mg/L	C	0.021	0.0246	0.0205	0.024	0.025
Total Mercury Daily Max. .00044 mg/L	.0008	C	C	C	C	C

Avg. = average	C = compliant	mg/L = milligrams per liter
Max. = maximum		



### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that TXI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and TXI's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: TXI Operations, LP, Docket No. 2007-0317-IWD-E" to:  
  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon TXI. TXI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against TXI in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to TXI, or three days after the date on which the Commission mails notice of the Order to TXI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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Third section of faint text, continuing the content from the previous section.

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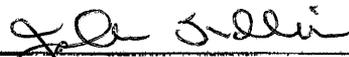
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TXI Operations, LP  
DOCKET NO. 2007-0317-IWD-E  
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

8/23/2007  
Date

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

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

5/07/07  
Date

George Euse  
Name (Printed or typed)  
Authorized Representative of  
TXI Operations, LP

V.P. ES+C  
Title

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

Date: / /

### UNIT 1: THE HISTORY OF THE UNITED STATES

1. The first settlers in North America were the Pilgrims who arrived in 1620.

2. The Pilgrims were seeking religious freedom.

3. The Pilgrims signed the Mayflower Compact in 1620, which established a form of self-government.

4. The Pilgrims faced many hardships, including lack of food and shelter, but they survived and established the Plymouth Colony.

5. The Pilgrims were joined by other settlers, and the colony grew. They eventually merged with other colonies to form the United States.

6. The Pilgrims' legacy is celebrated every year on Thanksgiving, a day of giving thanks for the harvest and the help of the Native Americans.

7. The Pilgrims' story is a testament to the power of faith and the pursuit of a better life.



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