EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0414-WR-E **TCEQ ID:** RN103144929 **CASE NO.:** 29055

RESPONDENT NAME: Amistad Ready Mix, Inc.

ORDER TYPE:

__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY	X WATER RIGHTS	

SITE WHERE VIOLATION(S) OCCURRED: Amistad Aggregate Plant 1, Qualia Road, 1.5 miles southwest of the intersection of Qualia Drive and Hudson Drive, Val Verde County

TYPE OF OPERATION: Rock crushing and grinding

SMALL BUSINESS: __X__ Yes ____ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on September 18, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Anita Keese, Enforcement Division, Enforcement Section I, MC R-15, (956) 430-6034; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
TCEQ Field Investigator: Mr. Edward Vela, Harlingen Regional Office, MC R-15, (956) 430-6043
Respondent: Mr. Sergio Galindo, Owner, Amistad Ready Mix, Inc., P.O. Box 420789, Del Rio, Texas 78842-0789
Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** February 26, 2006 **Date of NOE Relating to this Case:** April 4, 2006 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **WATER** Failed to obtain written certification from the Watermaster prior to diverting water [30 TEX. ADMIN. CODE § 303.11(b) and TEX. WATER CODE § 11.081].	**Total Assessed:** $5,675 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $675 (remaining $5,000 due in 20 monthly payments of $250 each) **Site Compliance History Classification:** __High _X_Avg. __Poor **Person Compliance History Classification:** __High _X_Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002 **Findings Order Justification:** Three repeated enforcement actions over the prior five year period for the same violation.	**Ordering Provisions:** The Order will require the Respondent to: a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the water right amendment application within 30 days after the date of such requests or by any other deadline specified in writing; b. Immediately upon the effective date of this Agreed Order, cease all unauthorized diversions of state water until such time that written authorization to use state water is obtained from the Rio Grande Watermaster; c. Within 30 days after the effective date of this Agreed Order, submit an administratively complete water right amendment application; and d. Within 45 days after the effective date of this Agreed Order, submit written certification that either authorization to use the water right has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including the water right deed, receipts, and/or other records to demonstrate compliance.

Attachment: Site Compliance History

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES **Assigned** 05-Apr-2006
PCW 15-May-2006 **Screening** 12-Apr-2006 **EPA Due**

RESPONDENT/FACILITY INFORMATION

Respondent	Amistad Ready Mix, Inc.		
Reg. Ent. Ref. No.	RN103144929		
Facility/Site Region	15-Harlingen	**Major/Minor Source**	Minor Source

CASE INFORMATION

Enf./Case ID No.	29055	**No. of Violations**	1
Docket No.	2006-0414-WR-E	**Order Type**	Findings
Media Program(s)	Water Rights	**Enf. Coordinator**	Anita Keese
Multi-Media		**EC's Team**	Enforcement Team 2
Admin. Penalty $ Limit Minimum	$0	**Maximum**	$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) ***Subtotal 1*** **$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **52%** Enhancement ***Subtotals 2, 3, & 7*** **$1,300**

Notes: Compliance history site enhancement due to ten NOVs with same or similar violations and one NOV with dissimilar violations.

Culpability Yes **25%** Enhancement ***Subtotal 4*** **$625**

Notes: The respondent received written notification on January 26, 2006 to cease unauthorized diversions of state water.

Good Faith Effort to Comply **0%** Reduction ***Subtotal 5*** **$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The respondent is not yet in compliance.

Economic Benefit **50%** Enhancement* ***Subtotal 6*** **$1,250**

**Capped at the Total EB $ Amount*

Total EB Amounts	$16,958
Approx. Cost of Compliance	$17,100

SUM OF SUBTOTALS 1-7 **Final Subtotal** **$5,675**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount **$5,675**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **$5,675**

DEFERRAL 0% Reduction **Adjustment** **$0**

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

Notes: No deferral is recommended because this is a findings order.

PAYABLE PENALTY **$5,675**

Screening Date 12-Apr-2006 **Docket No.** 2006-0414-WR-E **PCW**
Respondent Amistad Ready Mix, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 29055 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN103144929
Media [Statute] Water Rights
Enf. Coordinator Anita Keese

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)*	10	50%
	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 judgements 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*	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%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **52%**

>> **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 Compliance history site enhancement due to ten NOVs with same or similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **52%**

Screening Date 12-Apr-2006 **Docket No.** 2006-0414-WR-E **PCW**

Respondent Amistad Ready Mix, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 29055 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN103144929

Media [Statute] Water Rights

Enf. Coordinator Anita Keese

Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 303.11(b)
Secondary Rule Cite(s)	Tex. Water Code § 11.081
Violation Description	Failure to obtain written certification from the Watermaster prior to diverting water by identifying the specific certificate of adjudication to be used and the pump number of the pump to be used. Specifically, the respondent diverted an estimated total of 16.234 acre feet of water from the Rio Grande River at pump site 6M1-1K without valid authorization.

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Unauthorized diversion, taking, or storage of a significant amount of state water or a significant unauthorized change in flood elevation of a stream which does not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic loss.

Adjustment -$3,750

Base Penalty Subtotal $1,250

Violation Events

Number of Violation Events: 2

mark only one, use a small x	
daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

Two monthly events are recommended from the date of the investigation on February 26, 2006 to the date of case screening on April 12, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $16,958

Statutory Limit Test

Violation Final Penalty Total $5,675

This violation Final Assessed Penalty (adjusted for limits) $5,675

Economic Benefit Worksheet

Respondent Amistad Ready Mix, Inc.
Case ID No. 29055
Reg. Ent. Reference No. RN103144929
Media [Statute] Water Rights
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$1,000	07-Dec-2005	31-Dec-2006	1.1	$53	n/a	$53
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost to obtain a water use permit. Date Required is the date of the first investigation and the Final Date is the estimated date of return to compliance.

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]	$100	07-Dec-2005	10-Mar-2006	1.0	$5	$100	$105
Other (as needed)	$16,000	07-Dec-2005	10-Mar-2006	1.0	$800	$16,000	$16,800

Notes for AVOIDED costs The avoided costs include the purchase price and the watermaster assessment fee for the water that was diverted without authorization calculated from the first date the unauthorized diversion was observed to the last date the unauthorized diversion was observed.

Approx. Cost of Compliance $17,100

TOTAL $16,958

Compliance History

Customer/Respondent/Owner-Operator:	CN601061104	Amistad Ready Mix, Inc.	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN103144929	AMISTAD AGGREGATE PLANT 1	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT		56103
Location:	QUALIA ROAD, 1.5 MILES SW OF THE INTERSECTION OF QUALIA DRIVE & HUDSON DRIVE, VAL VERDE COUNTY, TEXAS		Rating Date: September 01 05	Repeat Violator: NO
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Preparec	May 16, 2006			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	May 16, 2001 to May 16, 2006			

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

Name: Anita Keese Phone: (956) 430-6034

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 03/02/2006 (451671)
2 05/08/2006 (465130)
3 05/08/2006 (465120)
4 05/08/2006 (465121)
5 05/08/2006 (465123)
6 05/08/2006 (465124)
7 04/04/2006 (459531)
8 05/08/2006 (465126)
9 05/08/2006 (465127)
10 03/02/2006 (456247)
11 05/08/2006 (465129)

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

Date: 01/13/2006 (465124)

Self Report? NO Classification: Moderate

Citation: 2B TWC Chapter 11, SubChapter A 11.081

30 TAC Chapter 303, SubChapter B 303.11(b)

Descriptio Diverting State water without prior authorization.

Date: 01/06/2006 (465121)

Self Report? NO Classification: Moderate
Citation: 2B TWC Chapter 11, SubChapter A 11.081
30 TAC Chapter 303, SubChapter B 303.11(b)

Descriptio Diverting State water without prior authorization.

Date: 01/31/2006 (465127)
Self Report? NO Classification: Moderate
Citation: 2B TWC Chapter 11, SubChapter A 11.081
30 TAC Chapter 303, SubChapter B 303.11(b)
Descriptio Diverting State water without prior authorization.

Date: 03/10/2006 (465129)
Self Report? NO Classification: Moderate
Citation: 2B TWC Chapter 11, SubChapter A 11.081
30 TAC Chapter 303, SubChapter B 303.11(b)
Descriptio Diverting State water without prior authorization.

Date: 01/04/2006 (451671)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 303, SubChapter B 303.12(c)
Descriptio Diverting state water without proper authorization.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 303, SubChapter B 303.11(e)
Descriptio Each diverter shall install and maintain measuring devices at the authorized point of diversion which will provide for accurate measurement and accounting of the quantities of water diverted.

Date: 01/06/2006 (456247)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 303, SubChapter B 303.12(c)
Descriptio Diverting state water without proper authorization.

Date: 01/11/2006 (465123)
Self Report? NO Classification: Moderate
Citation: 2B TWC Chapter 11, SubChapter A 11.081
30 TAC Chapter 303, SubChapter B 303.11(b)
Descriptio Diverting State water without proper authorization.

Date: 03/29/2006 (465130)
Self Report? NO Classification: Moderate
Citation: 2B TWC Chapter 11, SubChapter A 11.081
30 TAC Chapter 303, SubChapter B 303.11(b)
Descriptio Diverting State water without proper authorization.

Date: 01/26/2006 (465126)
Self Report? NO Classification: Moderate
Citation: 2B TWC Chapter 11, SubChapter A 11.081
30 TAC Chapter 303, SubChapter B 303.11(b)
Descriptio Diverting State water without prior authorization.

Date: 09/08/2005 (400507)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter E 106.142(2)
Descriptio Failure to achieve control of dust from all permanent in-plant roads.

Date: 12/07/2005 (465120)
Self Report? NO Classification: Moderate

Citation:	2B TWC Chapter 11, SubChapter A 11.081
	30 TAC Chapter 303, SubChapter B 303.11(b)
Descriptio	Diverting State water without proper authorization.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
AMISTAD READY MIX, INC.	§	
RN103144929	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-0414-WR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Amistad Ready Mix, Inc. ("Amistad") under the authority TEX. WATER CODE ch. 11. The Executive Director of the TCEQ, through the Enforcement Division, and Amistad presented this agreement to the Commission.

Amistad understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Amistad agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Amistad.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Amistad owns and operates a rock crushing and grinding operation located on Qualia Road, 1.5 miles southwest of the intersection of Qualia Drive and Hudson Drive, Val Verde County, Texas (the "Facility").

2. Amistad's operation adjoins, is contiguous with or surrounds state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(46).

3. During an investigation conducted on February 26, 2006, TCEQ staff documented that Amistad diverted an estimated total of 16.234 acre feet of water from the Rio Grande River at pump site 6M1-1K without valid authorization.

4. Amistad received notice of the violations on or about April 9, 2006.

II. CONCLUSIONS OF LAW

1. Amistad is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 11 and TEX. WATER CODE § 7.002 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3, Amistad failed to obtain written certification from the Watermaster prior to diverting water, in violation of 30 TEX. ADMIN. CODE § 303.11(b) and TEX. WATER CODE § 11.081.

3. Pursuant to TEX. WATER CODE § 11.0842, the Commission has the authority to assess an administrative penalty against Amistad for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Five Thousand Six Hundred Seventy-Five Dollars ($5,675) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 11.0842. Amistad has paid Six Hundred Seventy-Five Dollars ($675) of the administrative penalty. The remaining amount of Five Thousand Dollars ($5,000) of the administrative penalty shall be payable in 20 monthly payments of Two Hundred Fifty Dollars ($250) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Amistad fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Amistad to meet the payment schedule of this Agreed Order constitutes the failure by Amistad to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. Amistad is assessed an administrative penalty in the amount of Five Thousand Six Hundred Seventy-Five Dollars ($5,675), as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The imposition of this administrative penalty and Amistad's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from

requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Amistad Ready Mix, Inc., Docket No. 2006-0414-WR-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. Amistad shall undertake the following technical requirements:

a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the water right amendment application within 30 days after the date of such requests or by any other deadline specified in writing;

b. Immediately upon the effective date of this Agreed Order, cease all unauthorized diversions of state water until such time that written authorization to use state water is obtained from the Rio Grande Watermaster;

c. Within 30 days after the effective date of this Agreed Order, submit an administratively complete water right amendment application in accordance with 30 TEX. ADMIN. CODE ch. 297 (relating to Conveyances of Land and Water Rights) to:

Water Rights Permitting & Availability, MC 160
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

d. Within 45 days after the effective date of this Agreed Order, submit written certification that either authorization to use the water right has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including the water right deed, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Submit all correspondence, reports, and documentation required by these Ordering Provisions to:

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

with a copy to:

Watermaster Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550

3. The provisions of this Agreed Order shall apply to and be binding upon Amistad. Amistad is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Amistad fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Amistad's failure to comply is not a violation of this Agreed Order. Amistad has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Amistad shall notify the Executive Director within seven days after Amistad becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Amistad shall be made in writing to the Executive Director. Extensions are not effective until Amistad receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Amistad if the Executive Director determines that Amistad has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.

8. This Agreed Order, issued by the Commission, shall not be admissible against Amistad 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.

9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 9/1/06
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Amistad Ready Mix, Inc. I am authorized to agree to the attached Agreed Order on behalf of Amistad Ready Mix, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Amistad Ready Mix, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

_____ 7-20-06
Signature Date

Sergio Galindo _____ Pres.
Name (printed or typed) Title
Authorized Representative
Amistad Ready Mix, Inc.

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