

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2006-0836-AIR-E TCEQ ID NO: RN104960497 ENF ID: 29943
RESPONDENT NAME: HOUSTON PRECAST, INC.

ORDER TYPE:

<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: 11393 Sleepy Hollow Road, Conroe, Montgomery County

TYPE OF OPERATION: Specialty concrete batch plant

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There was one complaint. The complainant has not expressed an interest to protest this action or speak at agenda. There is no record of additional pending enforcement actions regarding this facility.

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 February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Kathleen Decker, Litigation Division, MC 175, (512) 239-6500; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, Enforcement Division, MC R-4, (817) 588-5890

TCEQ Regional Contact: Ms. Linda Vasse, Houston Regional Office, MC R-12, (713) 767-3637

Respondent: Mr. Michael Bednar, Registered Agent and Director, Houston Precast, Inc., 11393 Sleepy Hollow Road, Conroe, Texas 77385

Respondent's Attorney: Not represented by counsel.

**RESPONDENT'S NAME: HOUSTON PRECAST, INC.
DOCKET NO.: 2006-0836-AIR-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: April 25, 2006</p> <p>Date(s) of Investigation(s) Relating to this Case: May 17th, 18th and 19th, 2006</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: June 22, 2006 (NOE)</p> <p>Background Facts: An EDRP was filed on September 28, 2006. The Respondent received notice of the EDRP on September 30, 2006. No Answer has been filed by the Respondent.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>AIR:</p> <p>1. Failed to obtain authorization prior to constructing and operating a specialty concrete batch plant [30 TEX. ADMIN. CODE § 116.110(a)(2)(A) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p>	<p>Total Assessed: \$30,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$30,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken:</p> <p>The Executive Director recognizes that the Respondent:</p> <ol style="list-style-type: none"> 1. Ceased operation of the Plant on May 19, 2006; and 2. Submitted a permit application for the Plant on May 26, 2006. <p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the Permit Application within 30 days after the date of such request, or by any other deadlines specified in writing. 2. Within 180 days, submit written certification that authorization to construct and operate a source of air emissions has been obtained, or certify that the concrete batch plant will not be used until authorization is obtained.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	26-Jun-2006	Screening	27-Jun-2006	EPA Due	
	PCW	28-Jun-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Houston Precast, Inc.
Reg. Ent. Ref. No.	RN104960497
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29943	No. of Violations	1
Docket No.	2006-0836-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Jorge Ibarra
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$30,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7 **\$0**

Notes: No change due to Average Performer classification.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes: The respondent does not meet the culpability criteria.

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 does not meet the good faith criteria.

Economic Benefit 0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts	\$140	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,500	

SUM OF SUBTOTALS 1-7 Final Subtotal **\$30,000**

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 **\$30,000**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$30,000**

DEFERRAL Reduction Adjustment **\$0**

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

Notes: Penalty is based on TEXAS WATER CODE § 7.052(b) which requires that the penalty for operating a concrete batch plant without the required permit is \$10,000 per day.

PAYABLE PENALTY **\$30,000**

Screening Date 27-Jun-2006

Docket No. 2006-0836-AIR-E

PCW

Respondent Houston Precast, Inc.

Policy Revision 2 (September 2002)

Case ID No. 29943

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104960497

Media [Statute] Air Quality

Enf. Coordinator Jorge Ibarra

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	0	0%
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)	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%
Other	<i>Please Enter Yes or No</i>		
	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No change due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 27-Jun-2006	Docket No. 2006-0836-AIR-E	PCW
Respondent Houston Precast, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 29943	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN104960497		
Media [Statute] Air Quality		
Enf. Coordinator Jorge Ibarra		
Violation Number <input type="text" value="1"/>		
Primary Rule Cite(s)	30 TAC § 116.110(a)(2)(A)	
Secondary Rule Cite(s)	Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)	
Violation Description	Failure to obtain authorization prior to constructing and operating a specialty concrete batch plant.	
Base Penalty		<input type="text" value="\$10,000"/>

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	X	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

The Respondent failed to meet 100% of the rule requirement. However, per TEXAS WATER CODE § 7.052(b), a concrete batch plant operating without a permit is penalized \$10,000 per day for each day that a continuing violation occurs.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	<i>daily</i>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$30,000"/>
	<i>monthly</i>	<input type="text"/>	
<i>mark only one</i>	<i>quarterly</i>	<input type="text"/>	
<i>use a small x</i>	<i>semiannual</i>	<input type="text"/>	
	<i>annual</i>	<input type="text"/>	
	<i>single event</i>	X	

Three single events are recommended based on the investigation date of May 17, 2006 to May 19, 2006, when the Respondent ceased operating the concrete batch plant.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$140"/>	Violation Final Penalty Total <input type="text" value="\$30,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$30,000"/>	

Economic Benefit Worksheet

Respondent Houston Precast, Inc.
 Case ID No. 29943
 Reg. Ent. Reference No. RN104960497
 Media [Statute] Air Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
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	\$2,500	17-May-2006	30-Jun-2007	1.1	\$140	n/a	\$140
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to obtain the required permit to construct. Date Required is the investigation date. Final Date is the projected date of 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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN603041757 HOUSTON PRECAST INC	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104960497 HOUSTON PRECAST	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION	79078
	AIR NEW SOURCE PERMITS	REGISTRATION	79088
Location:	11393 SLEEPY HOLLOW RD, CONROE, TX, 77385		Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 28, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 28, 2001 to June 28, 2006		

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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, 06/22/06 (480434)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
AGAINST
HOUSTON PRECAST, INC.
RN104960497**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2006-0836-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Houston Precast, Inc. ("Houston Precast").

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

FINDINGS OF FACT

1. Houston Precast owns and operates a specialty concrete batch plant located at 11393 Sleepy Hollow Road, Conroe, Montgomery County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During inspections conducted on May 17, 18, and 19, 2006, a TCEQ Houston Regional Office investigator documented that Houston Precast failed to obtain authorization prior to constructing and operating a specialty concrete batch plant.
4. Houston Precast received notice of the violation on or about June 27, 2006.
5. The Executive Director recognizes that Houston Precast:
 - a. ceased operation of the Plant on May 19, 2006; and
 - b. submitted a permit application for the Plant on May 26, 2006.

6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Houston Precast, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on September 28, 2006.
7. By letter dated September 28, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Houston Precast with notice of the EDPRP. According to the return receipt "green card," Houston Precast received notice of the EDPRP on November 30, 2006, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Houston Precast received notice of the EDPRP provided by the Executive Director. Houston Precast failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Houston Precast is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Houston Precast failed to obtain authorization prior to constructing and operating a specialty concrete batch plant in violation of 30 TEX. ADMIN. CODE § 116.110(a)(2)(A) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a).
3. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Houston Precast with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 8, Houston Precast failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Houston Precast and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Houston Precast 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.

6. An administrative penalty in the amount of thirty thousand dollars (\$30,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Houston Precast is assessed an administrative penalty in the amount of thirty thousand dollars (\$30,000.00) for violations of TEX. HEALTH & SAFETY CODE ch. 382 and rules of the TCEQ. The payment of this administrative penalty and Houston Precast's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Houston Precast, Inc.; Docket No. 2006-0836-AIR-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. Houston Precast shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the Permit Application within 30 after the date of such request, or by any other deadline specified in writing.
 - b. Within 180 days after the effective date of this Order, submit written certification that authorization to construct and operate a source of air emissions has been obtained, or certify that the concrete batch plant will not be used until authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.

The certification shall 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.

The certification shall be submitted 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:

Linda Vasse
Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Ste. H
Houston, Texas 77023-1486

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Houston Precast.
5. If Houston Precast 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, Houston Precast's failure to comply is not a violation of this Order. Houston Precast shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Houston Precast shall notify the Executive Director within

seven days after Houston Precast becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 Houston Precast shall be made in writing to the Executive Director. Extensions are not effective until Houston Precast receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Houston Precast if the Executive Director determines that Houston Precast has not complied with one or more of the terms or conditions in this Order.
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.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KATHLEEN C. DECKER

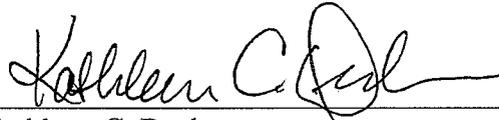
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kathleen C. Decker. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Houston Precast, Inc.’ (the ‘EDPRP’) was filed with the Office of the Chief Clerk on September 28, 2006.

The EDPRP was sent to Houston Precast at its last known address on September 28, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt ‘green card,’ Houston Precast received notice of the EDPRP on September 30, 2006, as evidenced by the signature on the card.

More than 20 days have elapsed since Houston Precast received notice of the EDPRP. Houston Precast failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Kathleen C. Decker
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kathleen C. Decker, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 9th day of January, A.D., 2007.

