

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0361-AIR-E **TCEQ ID:** RN100805613 **CASE NO.:** 32885
RESPONDENT NAME: Transit Mix Concrete & Materials Company

ORDER TYPE:		
<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	
CASE TYPE:		
<input checked="" 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 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

SITE WHERE VIOLATION(S) OCCURRED: Concrete batch plant, 1884 Mineral Wells Highway, Weatherford, Parker County

TYPE OF OPERATION: Concrete batch plant

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint was received July 31, 2006. The complainant contacted the TCEQ investigator and informed him that dust, originating from TMCMC, was creating a nuisance and interfering with his breathing which prevented him from going outside all week. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 18, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Jessica Rhodes, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2879; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Carl Campbell, President, Transit Mix Concrete & Materials Company, 2525 North Stemmens Freeway, Dallas, Texas 75207

Respondent's Attorney: Not represented by counsel on this enforcement matter

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 of Complaint Relating to this Case: July 31, 2006</p> <p>Date of Investigation Relating to this Case: August 1, 2006</p> <p>Date of NOE Relating to this Case: April 27, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. Two violations were documented.</p> <p>AIR</p> <p>1) Failed to prevent particulate emissions from causing a nuisance condition [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and 382.085(b)].</p> <p>2) Failed to maintain a sprinkler system operable at all times [30 TEX. ADMIN. CODE § 106.201(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,220</p> <p>Total Deferred: \$644 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,576</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <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 Actions Taken:</p> <p>The Executive Director recognizes that on August 31, 2006, Transit installed a new stockpile sprinkler system to ensure the maximum control of dust emissions.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	26-Feb-2007			
	PCW	3-Apr-2007	Screening	8-Mar-2007	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Transit Mix Concrete & Materials Company				
Reg. Ent. Ref. No.	RN100805613				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	32885	No. of Violations	2		
Docket No.	2007-0361-AIR-E	Order Type	1660		
Media Program(s)	Air Quality	Enf. Coordinator	Jessica Rhodes		
Multi-Media		EC's Team	Enforcement Team 5		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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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	17% Enhancement	Subtotals 2, 3, & 7	\$595
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Notes	Penalty enhancement due to one NOV issued for same or similar violations and six NOVs for unrelated violations.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$875
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes	Compliance was achieved on August 31, 2006.
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	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$21	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,220
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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Final Penalty Amount	\$3,220
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,220
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DEFERRAL	20% Reduction	Adjustment	-\$644
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$2,576
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Screening Date 8-Mar-2007

Docket No. 2007-0361-AIR-E

PCW

Respondent Transit Mix Concrete & Materials Company

Policy Revision 2 (September 2002)

Case ID No. 32885

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100805613

Media [Statute] Air Quality

Enf. Coordinator Jessica Rhodes

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)	1	5%
	Other written NOVs	6	12%
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 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) 17%

>> 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

Penalty enhancement due to one NOV issued for same or similar violations and six NOVs for unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 17%

Screening Date 8-Mar-2007

Docket No. 2007-0361-AIR-E

PCW

Respondent Transit Mix Concrete & Materials Company

Policy Revision 2 (September 2002)

Case ID No. 32885

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100805613

Media [Statute] Air Quality

Enf. Coordinator Jessica Rhodes

Violation Number 1

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

Violation Description Failed to prevent particulate emissions from causing a nuisance condition, as documented during an investigation conducted August 1, 2006. Specifically, dust emanating from material stockpiles, waste piles, and in-plant roads was impacting off-site receptors.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment was exposed to significant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended for the August 1, 2006 Investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$2,300

This violation Final Assessed Penalty (adjusted for limits) \$2,300

Economic Benefit Worksheet

Respondent: Transit Mix Concrete & Materials Company
Case ID No.: 32885
Reg. Ent. Reference No.: RN100805613
Media: 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
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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)	\$5,000	1-Aug-2006	31-Aug-2006	0.1	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to ensure the prevention of future nuisance conditions. Date Required is the date of the investigation and Final Date is the date compliance was achieved.

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 \$5,000

TOTAL \$21

Screening Date 8-Mar-2007

Docket No. 2007-0361-AIR-E

PCW

Respondent Transit Mix Concrete & Materials Company

Policy Revision 2 (September 2002)

Case ID No. 32885

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100805613

Media [Statute] Air Quality

Enf. Coordinator Jessica Rhodes

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 106.201(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain a sprinkler system operable at all times as documented during an investigation conducted August 1, 2006. Specifically, the stockpile sprinkler had been disconnected pending installation of a high-pressure sprinkler system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels 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 Number of violation days 1

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$1,000

One single event is recommended for the August 1, 2006 Investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$920

This violation Final Assessed Penalty (adjusted for limits) \$920

Economic Benefit Worksheet

Respondent Transit Mix Concrete & Materials Company
Case ID No. 32885
Reg. Ent. Reference No. RN100805613
Media Air Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
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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

Economic benefit is associated with violation 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

Compliance History

Customer/Respondent/Owner-Operator:	CN600408009	Transit Mix Concrete & Materials Company	Classification: AVERAGE	Rating: 2.77
Regulated Entity:	RN100805613	TRANSIT MIX CBP NO 1775	Classification: AVERAGE	Site Rating: 1.03
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT		44504
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		944504R
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		PC0290P
	WASTE WATER GENERAL PERMIT	PERMIT		TXG110557
	WASTE WATER GENERAL PERMIT	PERMIT		TXG110294
Location:	1884 MINERAL WELLS HWY, WEATHERFORD, TX, 76088			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	March 02, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 02, 2002 to March 02, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jessica Rhodes	Phone:	512-239-2879	

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? Yes
3. If Yes, who is the current owner? Transit Mix Concrete & Materials Company
4. If Yes, who was/were the prior owner(s)? J. Greene Concrete, Inc.
5. When did the change(s) in ownership occur? 6/27/2005

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	05/10/2002	(244056)
2	09/30/2002	(244057)
3	09/30/2002	(244058)
4	10/10/2002	(12997)
5	03/21/2003	(331738)
6	03/21/2003	(331740)
7	03/21/2003	(331742)
8	03/21/2003	(331744)
9	03/21/2003	(331745)
10	03/21/2003	(331746)
11	08/18/2003	(331734)
12	08/18/2003	(331735)
13	08/18/2003	(331736)
14	11/04/2003	(331737)
15	11/04/2003	(331739)
16	11/04/2003	(331741)
17	11/04/2003	(331743)
18	04/05/2005	(429560)
19	04/05/2005	(429561)
20	04/05/2005	(429562)
21	04/05/2005	(429563)

22 04/05/2005 (429564)
 23 04/05/2005 (429565)
 24 04/05/2005 (429566)
 25 07/29/2005 (429558)
 26 07/29/2005 (429559)
 27 07/29/2005 (429567)
 28 12/12/2005 (496294)
 29 12/12/2005 (496295)
 30 12/12/2005 (496296)
 31 04/06/2006 (508237)

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

Date:	09/03/2002	(4944)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 101, SubChapter A 101.6(b)[G]			
Description:	Failure to keep complete non-reportable upset records on site.			
Date:	06/30/2004	(429561)		
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:	07/31/2004	(429562)		
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:	08/31/2004	(429563)		
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:	10/31/2004	(429565)		
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:	11/30/2004	(429566)		
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:	08/31/2005	(397863)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 106, SubChapter H 106.201(1) 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	Failure to maintain the stockpile sprinkler system operable at all times as required by 30 TAC § 106.201(1).			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 106, SubChapter H 106.201(3) 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	Failure to keep all batch trucks and material delivery trucks on a paved surface when entering, conducting primary functions, and leaving there property, and failure to water, treat with dust-suppressant chemicals, oil, or pave and clean other areas on the property subject to vehicle traffic as necessary to achieve			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 106, SubChapter H 106.201(6) 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	Failure to control dust emissions at the batch drop point as required by 30 TAC § 106.201(6).			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.4 5C THC Chapter 382, SubChapter A 382.085(a) 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	Failure to prevent nuisance conditions as required by 30 TAC § 101.4.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 106, SubChapter A 106.4(c) 5C THC Chapter 382, SubChapter A 382.085(b)			

Description: Failure to maintain all emission control equipment in good condition and operating properly during operation of the facility as required by 30 TAC §
Self Report? NO Classification Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(3)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain records at the facility to demonstrate compliance as required by 30 TAC § 106.8(c)(3).

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 106, SubChapter K 106.264(7)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to notify the TCEQ within ten days following the installation of the replacement facility as required by 30 TAC § 106.264(7).

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
TRANSIT MIX CONCRETE &
MATERIALS COMPANY
RN100805613

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

AGREED ORDER
DOCKET NO. 2007-0361-AIR-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 Transit Mix Concrete & Materials Company ("Transit") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Transit appear before the Commission and together stipulate that:

1. Transit owns and operates a concrete batch plant at 1884 Mineral Wells Highway in Weatherford, Parker County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Transit agree that the Commission has jurisdiction to enter this Agreed Order, and that Transit is subject to the Commission's jurisdiction.
4. Transit received notice of the violations alleged in Section II ("Allegations") on or about March 1, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Transit of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Two Hundred Twenty Dollars (\$3,220) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Transit has paid Two Thousand Five Hundred Seventy-Six Dollars (\$2,576) of the administrative penalty and Six Hundred Forty-Four Dollars (\$644) is deferred contingent upon Transit'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 Transit fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Transit 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 Transit 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 on August 31, 2006, Transit installed a new stockpile sprinkler system to ensure the maximum control of dust emissions.
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 Transit 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 Plant, Transit is alleged to have:

1. Failed to prevent particulate emissions from causing a nuisance condition, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and 382.085(b), as documented during an investigation conducted on August 1, 2006. Specifically, dust emanating from material stockpiles, waste piles, and in-plant roads was impacting off-site receptors.
2. Failed to maintain a sprinkler system operable at all times, in violation of 30 TEX. ADMIN. CODE § 106.201(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted August 1, 2006. Specifically, the stockpile sprinkler had been disconnected pending installation of a high-pressure sprinkler system.

III. DENIALS

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

The first of these is the fact that the majority of the cases of this disease are reported from the industrialized countries of the world. It is interesting to note that the incidence of this disease is increasing in these countries, while it is decreasing in the less developed countries. This suggests that the disease is more common in the more advanced stages of civilization.

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REFERENCES

1. [Illegible text]
2. [Illegible text]
3. [Illegible text]
4. [Illegible text]
5. [Illegible text]
6. [Illegible text]
7. [Illegible text]
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10. [Illegible text]

DISCUSSION

The first of these is the fact that the majority of the cases of this disease are reported from the industrialized countries of the world. It is interesting to note that the incidence of this disease is increasing in these countries, while it is decreasing in the less developed countries. This suggests that the disease is more common in the more advanced stages of civilization.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Transit pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Transit'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: Transit Mix Concrete & Materials Company, Docket No. 2007-0361-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. The provisions of this Agreed Order shall apply to and be binding upon Transit. Transit is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Transit 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 Transit, or three days after the date on which the Commission mails notice of the Order to Transit, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

MEMORANDUM FOR THE BOARD OF DIRECTORS

The following information is being provided to you for your information and guidance. It is intended to provide you with a summary of the current status of the company's operations and financial performance. The information is based on the most recent available data and is subject to change as more information becomes available.

Very truly yours,
[Signature]
[Name]
[Title]

The following information is being provided to you for your information and guidance. It is intended to provide you with a summary of the current status of the company's operations and financial performance. The information is based on the most recent available data and is subject to change as more information becomes available.

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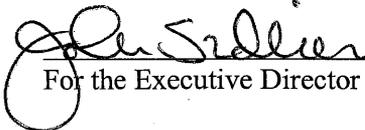
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

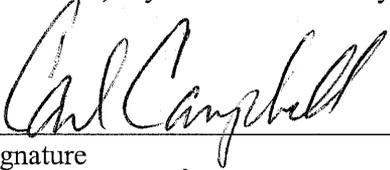
7/9/07
Date

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

4-16-07
Date



Name (Printed or typed)
Authorized Representative of
Transit Mix Concrete & Materials Company

Pres.
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.

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