EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0264-PWS-E **TCEQ ID:** RN101227676 **CASE NO.:** 32759

RESPONDENT NAME: Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
___AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
___MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Concrete pipe manufacturing plant with a public water supply at 2735 Highway 36 North, Sealy, Austin County

TYPE OF OPERATION: Concrete pipe manufacturing plant

SMALL BUSINESS: ____ **Yes** __X__ **No**

OTHER SIGNIFICANT MATTERS: No complaints were received. 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 June 18, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Epifanio Villareal, Enforcement Division, Enforcement Team 2, MC 169,R-13 (210) 403-4033 ; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Chad Holden, General Manager, Rinker Materials Moor-Tex, Post Office Box 1088, Sealy, Texas 77474-1088

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

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:** December 12, 2006 **Date of NOE Relating to this Case:** January 26, 2007 (NOE) **Background Facts:** This was a routine investigation. Three violations were documented. **WATER** 1) Failed to employ a water works operator that holds a Class D or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a)]. 2) Failed to maintain an up-to-date chemical and microbiological monitoring plan for the distribution system that identifies all locations where routine sampling for microbial contaminants will be conducted [30 TEX. ADMIN. CODE § 290.121(a) and (b)]. 3) Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Commission each quarter by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)].	**Total Assessed:** $1,552 **Total Deferred:** $310 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,242 **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 10 days after the effective date of this Agreed Order, Hydro Conduit shall: i. Begin maintaining an up-to-date chemical and microbiological monitoring plan for the distribution system; and ii. Prepare and begin submitting DLQORs to the Commission in a timely manner. b. Within 15 days after the effective date after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a. c. Within 30 days after the effective date of this Agreed Order, employ a water works operator who holds a minimum of a Class D license, in accordance with 30 TEX. ADMIN. CODE § 290.46. d. Within 45 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision January 9, 2007*

DATES					
Assigned	5-Feb-2007				
PCW	22-Feb-2007	Screening	22-Feb-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex		
Reg. Ent. Ref. No.	RN101227676		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32759	No. of Violations	3
Docket No.	2007-0264-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$1,150**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **35%** Enhancement — *Subtotals 2, 3, & 7* **$402**

Notes: The penalty enhancement is due to two prior Notices of Violation containing violations that are the same as or similar to the violations in the current enforcement action and one prior administrative order that does not contain denial of liability.

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 x)

Notes: The respondent does not meet the good faith criteria.

Total EB Amounts	$9,687
Approx. Cost of Compliance	$10,600

0% Enhancement* — **Capped at the Total EB $ Amount* — *Subtotal 6* **$0**

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$1,552**

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 **$1,552**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$1,552**

DEFERRAL — **20%** Reduction — *Adjustment* **-$310**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$1,242**

Screening Date 22-Feb-2007 **Docket No.** 2007-0264-PWS-E **PCW**

Respondent Hydro Conduit of Texas, LP dba Rinker Materials Moor-T

Policy Revision 2 (September 2002)

Case ID No. 32759

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101227676

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

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*)	2	10%
	Other written NOVs	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	1	25%
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%

		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) 35%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty enhancement is due to two prior Notices of Violation containing violations that are the same as or similar to the violations in the current enforcement action and one prior administrative order that does not contain denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date 22-Feb-2007 **Docket No.** 2007-0264-PWS-E **PCW**

Respondent Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex *Policy Revision 2 (September 2002)*

Case ID No. 32759 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101227676

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(4)(A) and Tex. Health & Safety Code § 341.033(a)

Violation Description Failed to ensure that the public water supply operation is under the direct supervision of a water works operator who holds a minimum of a Class D license.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Without a licensed water works operator managing the facility, improper management of the water supply could result in customers of the water supply being exposed to contaminants which would exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 3 | 72 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $750

Three monthly events are recommended from the date of the investigation, December 12, 2006 to the date of screening, Febuary 22, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $9,292

Statutory Limit Test

Violation Final Penalty Total $1,012

This violation Final Assessed Penalty (adjusted for limits) $1,012

Economic Benefit Worksheet

Respondent Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex
Case ID No. 32759
Reg. Ent. Reference No. RN101227676
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel	$10,000	12-Dec-2006	31-Oct-2007	0.9	$442	$8,849	$9,292
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	The avoided costs include the amount to employ an operator with at least a Class D license, calculated from the date of the investigation to the estimated date of compliance.						

Approx. Cost of Compliance: $10,000

TOTAL: $9,292

Screening Date 22-Feb-2007 **Docket No.** 2007-0264-PWS-E **PCW**

Respondent Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex *Policy Revision 2 (September 2002)*

Case ID No. 32759 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101227676

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description Failed to maintain an up-to-date chemical and microbiological monitoring plan for the distribution system that identifies all locations where routine sampling for microbial contaminants will be conducted. Specifically, at the time of the investigation, no monitoring plan was provided.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met

Adjustment $900

$100

Violation Events

Number of Violation Events 1 | 72 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $135

This violation Final Assessed Penalty (adjusted for limits) $135

Economic Benefit Worksheet

Respondent Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex
Case ID No. 32759
Reg. Ent. Reference No. RN101227676
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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	$100	12-Dec-2006	10-Sep-2007	0.7	$4	n/a	$4
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	The delayed costs include the amount to prepare and begin maintaining a chemical and microbiological monitoring plan for the distribution system, calculated from the date of the investigation to the estimated 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: $100

TOTAL: $4

Screening Date 22-Feb-2007 **Docket No.** 2007-0264-PWS-E **PCW**

Respondent Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex *Policy Revision 2 (September 2002)*

Case ID No. 32759 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101227676

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)

Violation Description Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Commission each quarter by the tenth day of the month following the end of each quarter. Specifically, at the time of the investigation, the investigator documented that no DLQOR reports were provided.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met

Adjustment $900

$100

Violation Events

Number of Violation Events 3 | 272 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $300

Three quarterly events are recommended for the first three quarters of 2006, which are the quarters immediately preceding the December 12, 2006 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $391

Statutory Limit Test

Violation Final Penalty Total $405

This violation Final Assessed Penalty (adjusted for limits) $405

Economic Benefit Worksheet

Respondent Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex
Case ID No. 32759
Reg. Ent. Reference No. RN101227676
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
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	$500	1-Jan-2006	30-Sep-2006	0.7	$19	$373	$391
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	The avoided costs include the amount necessary to prepare and submit the DLQORs, calculated for the first three quarters of 2006.						

Approx. Cost of Compliance: $500

TOTAL: $391

Compliance History

Customer/Respondent/Owner-Operator:	CN601047673	Hydro Conduit of Texas, LP	Classification: AVERAGE	Rating: 6.52
Regulated Entity:	RN101227676	RINKER MATERIALS MOOR-TEX	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		0080047
Location:	2735 HWY. 36 NORTH, SEALY, TX, 77474			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	February 22, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 22, 2002 to February 22, 2007			

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

Name: Epifanio Villarreal Phone: 210-403-4033

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.

Effective Date: 07/21/2003 ADMINORDER 2002-1347-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)[G]
4G THC Chapter 321, SubChapter D 341.033(d)

Description: Failure to collect and submit routine monthly water samples for bacteriological analysis.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(g)[G]
30 TAC Chapter 290, SubChapter F 290.122[G]

Description: Failure to provide public notice of the failure to sample.

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.)

09/16/2003 (248694)
03/27/2002 (IE0017903001001
02/01/2007 (536396)
04/09/2003 (31314)

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

Date: 09/12/2003 (248694)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)

Description: Failure to employ a water works operator holding a valid Class "D" or higher operator's license to operate the water system.

Date: 04/10/2003 (31314)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)

Description: Failure to employ a water works operator holding a valid Class "D" or higher operator's license to operate the water system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all related appurtenances in a watertight condition.

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 CONCERNING HYDRO CONDUIT OF TEXAS, LP DBA RINKER MATERIALS MOOR-TEX RN101227676	§ § § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0264-PWS-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 Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex ("Hydro Conduit") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Hydro Conduit appear before the Commission and together stipulate that:

1. Hydro Conduit owns and operates a concrete pipe manufacturing plant with a public water supply at 2735 Highway 36 North in Sealy, Austin County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.

2. The Commission and Hydro Conduit agree that the Commission has jurisdiction to enter this Agreed Order, and that Hydro Conduit is subject to the Commission's jurisdiction.

3. Hydro Conduit received notice of the violations alleged in Section II ("Allegations") on or about January 31, 2007.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Hydro Conduit of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of One Thousand Five Hundred Fifty-Two Dollars ($1,552) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Hydro Conduit has paid One Thousand Two Hundred Forty-Two Dollars

($1,242) of the administrative penalty and Three Hundred Ten Dollars ($310) is deferred contingent upon Hydro Conduit'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 Hydro Conduit fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Hydro Conduit to pay all or part of the deferred penalty.

6. 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.

7. The Executive Director of the TCEQ and Hydro Conduit have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

8. 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 Hydro Conduit has not complied with one or more of the terms or conditions in this Agreed Order.

9. 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.

10. 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, Hydro Conduit is alleged to have:

1. Failed to employ a water works operator that holds a Class D or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a), as documented during an investigation conducted on December 12, 2006.

2. Failed to maintain an up-to-date chemical and microbiological monitoring plan for the distribution system that identifies all locations where routine sampling for microbial contaminants will be conducted, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b), as documented during an investigation conducted on December 12, 2006.

3. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Commission each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4), as documented during an investigation conducted on December 12, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Hydro Conduit pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Hydro Conduit'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: Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex, Docket No. 2007-0264-PWS-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. It is further ordered that Hydro Conduit shall undertake the following technical requirements:

   a. Within 10 days after the effective date of this Agreed Order, Hydro Conduit shall:

      i. Begin maintaining an up-to-date chemical and microbiological monitoring plan for the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.121; and

      ii. Prepare and begin submitting DLQORs to the Commission in a timely manner, in accordance with 30 TEX. ADMIN. CODE § 290.110.

   b. Within 15 days after the effective date after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.d., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.

   c. Within 30 days after the effective date of this Agreed Order, employ a water works operator who holds a minimum of a Class D license, in accordance with 30 TEX. ADMIN. CODE § 290.46.

   d. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No 2.c. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant

penalties for submitting false information, including the possibility of 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:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Hydro Conduit. Hydro Conduit 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.

4. 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 Hydro Conduit shall be made in writing to the Executive Director. Extensions are not effective until Hydro Conduit receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Hydro Conduit 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.

6. 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.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Hydro Conduit, or three days after the date on which the Commission mails notice of the Order to Hydro Conduit, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 8/21/2007
For the Executive Director 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.

_____ 8-9-07
Signature Date

Chad Holden General Manager
Name (Printed or typed) Title
Authorized Representative of
Hydro Conduit of Texas, LP dba Rinker Materials Moor-Tex

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.