

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0785-IWD-E **TCEQ ID:** RN104547187 **CASE NO.:** 33471

**RESPONDENT NAME:** Wise Ready Mix Concrete Company

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Wise Ready Mix Bridgeport Plant, located on the southwest corner of the intersection of Highway 380 and 16<sup>th</sup> Street, Wise County</p> <p><b>TYPE OF OPERATION:</b> Ready mix concrete</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 8, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Alton Baker, President, Wise Ready Mix Concrete Company, P.O. Box 488, Bridgeport, Texas 76426  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 9, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 18, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to comply with permit effluent limits for Total Suspended Solids and pH [Wastewater General Permit No. TXG110495, Permit Requirements Section A, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$2,500</p> <p><b>Total Deferred:</b> \$500  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,000</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with Wastewater General Permit No. TXG110495, Permit Requirements Section A. The certification shall include detailed supporting documentation including receipts, and of other records to demonstrate compliance.</p>

Additional ID No(s): TXG110495



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	23-Apr-2007	<b>Screening</b>	29-Apr-2007	<b>EPA Due</b>	
	<b>PCW</b>	1-May-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Wise Ready Mix Concrete Company		
<b>Reg. Ent. Ref. No.</b>	RN104547187		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33471	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0785-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Cheryl Thompson
<b>Multi-Media</b>		<b>EC's Team</b>	3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

**Notes**

<b>Total EB Amounts</b>	<input type="text" value="\$200"/>	<b>0% Enhancement*</b>	<b>Subtotal 6</b> <input type="text" value="\$0"/>
<b>Approx. Cost of Compliance</b>	<input type="text" value="\$2,000"/>	<i>*Capped at the Total EB \$ Amount</i>	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

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

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

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 29-Apr-2007

Docket No. 2007-0785-IWD-E

PCW

Respondent Wise Ready Mix Concrete Company

Policy Revision 2 (September 2002)

Case ID No. 33471

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104547187

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### 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)	5	25%
	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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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) 25%

>> 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

The Respondent self-reported five months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 29-Apr-2007

Docket No. 2007-0785-IWD-E

PCW

Respondent Wise Ready Mix Concrete Company

Policy Revision 2 (September 2002)

Case ID No. 33471

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104547187

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Wastewater General Permit No. TXG110495, Permit Requirements Section A, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits for Total Suspended Solids and pH. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

59 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the months the permitted limits were exceeded.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$200

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

## Economic Benefit Worksheet

**Respondent** Wise Ready Mix Concrete Company  
**Case ID No.** 33471  
**Reg. Ent. Reference No.** RN104547187  
**Media** Water Quality  
**Violation No.** 1

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

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

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Feb-2006	31-Jan-2008	2.0	\$200	n/a	\$200

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date required is the month the first non-compliant excursion was documented. Final date is the expected 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

\$2,000

TOTAL

\$200





# Compliance History

Customer/Respondent/Owner-Operator: CN601349293 Wise Ready Mix Concrete Company Classification: AVERAGE Rating: 2.77  
Regulated Entity: RN104547187 WISE READY MIX BRIDGEPORT PLANT Classification: AVERAGE Site Rating: 0.79  
ID Number(s): WASTE WATER GENERAL PERMIT PERMIT TXG110495  
Location: ON THE SOUTHWEST CORNER OF THE INTERSECTION OF HIGHWAY 380 AND 16TH STREET WISE COUNTY Rating Date: 9/1/2006 Repeat Violator: NO  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: April 29, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: April 29, 2002 to April 29, 2007

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

Name: Cheryl Thompson Phone: (817) 588-5886

## 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? 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	12/08/2004	(392170)
2	01/07/2005	(392171)
3	02/18/2005	(429468)
4	03/07/2005	(429469)
5	05/06/2005	(429470)
6	05/06/2005	(429471)
7	05/06/2005	(429472)
8	07/11/2005	(449023)
9	08/19/2005	(449024)
10	09/19/2005	(449025)
11	10/31/2005	(496128)
12	01/05/2006	(496129)
13	01/05/2006	(496130)
14	01/05/2006	(496131)
15	03/15/2006	(496126)
16	03/15/2006	(496127)
17	06/07/2006	(508162)
18	06/07/2006	(508163)
19	08/28/2006	(530479)
20	08/28/2006	(530480)
21	12/18/2006	(553214)
22	12/18/2006	(553215)
23	12/18/2006	(553216)
24	12/18/2006	(553217)
25	04/19/2007	(543576)



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

Date: 11/30/2004 (392170)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2005 (429470)

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 (449025)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 02/28/2006 (496127)

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 05/31/2006 (508163)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WISE READY MIX CONCRETE  
COMPANY  
RN104547187**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0785-IWD-E**

**I. JURISDICTION AND STIPULATIONS**

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

1. Wise Ready Mix owns and operates a ready mix concrete plant located on the southwest corner of the intersection of Highway 380 and 16<sup>th</sup> Street in Wise County, Texas (the "Facility").
2. Wise Ready Mix has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Wise Ready Mix agree that the Commission has jurisdiction to enter this Agreed Order, and that Wise Ready Mix is subject to the Commission's jurisdiction.
4. Wise Ready Mix received notice of the violations alleged in Section II ("Allegations") on or about April 23, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Wise Ready Mix of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").



Wise Ready Mix has paid Two Thousand Dollars (\$2,000) of the administrative penalty and Five Hundred Dollars (\$500) is deferred contingent upon Wise Ready Mix'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 Wise Ready Mix fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Wise Ready Mix 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 Wise Ready Mix have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Wise Ready Mix has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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, Wise Ready Mix is alleged to have failed to comply with permit effluent limits for Total Suspended Solids and pH, in violation of Wastewater General Permit No. TXG110495, Permit Requirements Section A, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 9, 2007 as indicated in the table below:

<i><b>EFFLUENT PARAMETER</b></i>		
<i><b>Permit Limit</b></i>		
	<b>pH</b>	<b>Total Suspended Solids (TSS)</b>
<i><b>Month/Year</b></i>	<b>Daily Maximum 9.0 SU</b>	<b>Daily Maximum 65 mg/L</b>
Feb-06	<b>9.92</b>	<b>460</b>
May-06	<b>c</b>	<b>138</b>

SU = standard unit

c = compliant

mg/L = milligrams per liter

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The second part of the document provides a detailed breakdown of the financial data, including a summary of the total revenue and expenses for the period. It also includes a comparison of the current period's performance against the previous period, highlighting any significant changes or trends.

The third part of the document contains a detailed analysis of the financial data, including a breakdown of the revenue and expenses by category. It also includes a comparison of the current period's performance against the previous period, highlighting any significant changes or trends. The fourth part of the document provides a summary of the findings and conclusions, including a list of recommendations for future action. It also includes a list of the key personnel involved in the preparation of the report, along with their respective roles and responsibilities.

The fifth part of the document contains a detailed analysis of the financial data, including a breakdown of the revenue and expenses by category. It also includes a comparison of the current period's performance against the previous period, highlighting any significant changes or trends. The sixth part of the document provides a summary of the findings and conclusions, including a list of recommendations for future action. It also includes a list of the key personnel involved in the preparation of the report, along with their respective roles and responsibilities.

The seventh part of the document contains a detailed analysis of the financial data, including a breakdown of the revenue and expenses by category. It also includes a comparison of the current period's performance against the previous period, highlighting any significant changes or trends. The eighth part of the document provides a summary of the findings and conclusions, including a list of recommendations for future action. It also includes a list of the key personnel involved in the preparation of the report, along with their respective roles and responsibilities.

The ninth part of the document contains a detailed analysis of the financial data, including a breakdown of the revenue and expenses by category. It also includes a comparison of the current period's performance against the previous period, highlighting any significant changes or trends. The tenth part of the document provides a summary of the findings and conclusions, including a list of recommendations for future action. It also includes a list of the key personnel involved in the preparation of the report, along with their respective roles and responsibilities.

The eleventh part of the document contains a detailed analysis of the financial data, including a breakdown of the revenue and expenses by category. It also includes a comparison of the current period's performance against the previous period, highlighting any significant changes or trends. The twelfth part of the document provides a summary of the findings and conclusions, including a list of recommendations for future action. It also includes a list of the key personnel involved in the preparation of the report, along with their respective roles and responsibilities.

### III. DENIALS

Wise Ready Mix generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Wise Ready Mix pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Wise Ready Mix'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: Wise Ready Mix Concrete Company, Docket No. 2007-0785-IWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with Wastewater General Permit No. TXG110495, Permit Requirements Section A. The certification shall include detailed supporting documentation including receipts, and or other records to demonstrate compliance, 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:



Water Section, Manager  
Dallas-Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

2. The provisions of this Agreed Order shall apply to and be binding upon Wise Ready Mix. Wise Ready Mix is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If Wise Ready Mix 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, Wise Ready Mix's failure to comply is not a violation of this Agreed Order. Wise Ready Mix shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Wise Ready Mix shall notify the Executive Director within seven days after Wise Ready Mix becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Wise Ready Mix shall be made in writing to the Executive Director. Extensions are not effective until Wise Ready Mix 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 Wise Ready Mix 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 Wise Ready Mix, or three days after the date on which the Commission mails notice of the Order to Wise Ready Mix, 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

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

\_\_\_\_\_  
Date 10/18/07

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 7-26-07

ALTON J. BAKER  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Wise Ready Mix Concrete Company

\_\_\_\_\_  
Title PRES.

**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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