

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1314-AIR-E **TCEQ ID:** RN102437274 **CASE NO.:** 34433

**RESPONDENT NAME:** Cemex Construction Materials, L.P.

<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 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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Cemex Construction New Braunfels Quarry Facility, 2682 Wald Road, New Braunfels, Comal County</p> <p><b>TYPE OF OPERATION:</b> Quarry and rock crushing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 December 31, 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. Trina Grieco, Enforcement Division, Enforcement Team 5, R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Christopher Iaccio, Plant Manager, Cemex Construction Materials, L.P., 2682 Wald Road, New Braunfels, Texas 78132-4900                  Mr. Alwyn S. Thorpe, Director of Aggregate Operations, Cemex Construction Materials, L.P., 2682 Wald Road, New Braunfels, Texas 78132-4900  <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> July 31, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 3, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>AIR</b></p> <p>Failure to report a deviation within 30 days after the end of the deviation reporting period and to submit the annual compliance certification ("ACC") within 30 days after the end of the certification period. Specifically, the deviation for failing to submit an ACC within 30 days after the May 22, 2005 to May 21, 2006 reporting period was required to be submitted by December 21, 2006, but was not submitted until July 30, 2007. The ACC for the May 22, 2006 to May 21, 2007 certification period was required to be submitted by June 20, 2007, but was not submitted until July 27, 2007 [30 TEX. ADMIN. CODE §§ 122.145(2)(C) and 122.146(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$4,950</p> <p><b>Total Deferred:</b> \$990  <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> \$3,960</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Submitted a deviation report on July 30, 2007 that included the deviation for failing to submit the annual compliance certification ("ACC") within 30 days after the May 22, 2005 to May 21, 2006 certification period; and</p> <p>b. Submitted the ACC on July 27, 2007 for the May 22, 2006 to May 21, 2007 certification period.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

<b>DATES</b>	Assigned	6-Aug-2007	Screening	15-Aug-2007	EPA Due	2-May-2008
	PCW	10-Aug-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Cemex Construction Materials, L.P.		
Reg. Ent. Ref. No.	RN102437274		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	34433	No. of Violations	1
Docket No.	2007-1314-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Trina Grieco
Multi-Media		EC's Team	EnforcementTeam 5
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$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:  24% Enhancement

**Culpability** Subtotal 4

Notes:  No  Enhancement

**Good Faith Effort to Comply** Subtotal 5

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

Notes:  25% Reduction

**Total EB Amounts**  Subtotal 6   
**Approx. Cost of Compliance**  0% Enhancement\*  
\*Capped at the Total EB \$ Amount

**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:  20% Reduction

**PAYABLE PENALTY**

Screening Date 15-Aug-2007

Docket No. 2007-1314-AIR-E

PCW

Respondent Cemex Construction Materials, L.P.

Policy Revision 2 (September 2002)

Case ID No. 34433

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102437274

Media [Statute] Air

Enf. Coordinator Trina Grieco

## Compliance History Worksheet

## &gt;&gt; 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)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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%

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) 24%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Penalty enhancement due to two NOVs issued for non-similar violations and one agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 24%

<b>Screening Date</b> 15-Aug-2007	<b>Docket No.</b> 2007-1314-AIR-E	<b>PCW</b>		
<b>Respondent</b> Cemex Construction Materials, L.P.	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 34433	<i>PCW Revision June 26, 2007</i>			
<b>Reg. Ent. Reference No.</b> RN102437274				
<b>Media [Statute]</b> Air				
<b>Enf. Coordinator</b> Trina Grieco				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.145(2)(C) and 122.146(2) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to report a deviation within 30 days after the end of the deviation reporting period and to submit the annual compliance certification ("ACC") within 30 days after the end of the certification period. Specifically, the deviation for failing to submit an ACC within 30 days after the May 22, 2005 to May 21, 2006 reporting period was required to be submitted by December 21, 2006, but was not submitted until July 30, 2007. The ACC for the May 22, 2006 to May 21, 2007 certification period was required to be submitted by June 20, 2007, but was not submitted until July 27, 2007.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="25%"/>
<b>Matrix Notes</b>	100% of the rule requirements were not met.			
<b>Adjustment</b>		<input type="text" value="\$7,500"/>		
				<input type="text" value="\$2,500"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="2"/>	<b>Number of violation days</b>	
		<input type="text" value="257"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
Two single events (one per report) are recommended.				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		<input type="text" value="\$12"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$4,950"/>	
			<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$4,950"/>	

## Economic Benefit Worksheet

**Respondent** Cemex Construction Materials, L.P.  
**Case ID No.** 34433  
**Reg. Ent. Reference No.** RN102437274  
**Media** Air  
**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)	\$400	21-Dec-2006	30-Jul-2007	0.6	\$12	n/a	\$12

**Notes for DELAYED costs** Estimated cost to prepare and submit a deviation report and an annual compliance certification. Date required is the date the first report was required to be submitted. Final date is the date corrective actions were completed.

**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**

<b>Approx. Cost of Compliance</b>	\$400	<b>TOTAL</b>	\$12
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N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/02/2003	(34419)
2	08/29/2003	(152139)
3	11/20/2003	(255490)
4	11/20/2003	(255098)
5	03/25/2004	(266848)
6	07/15/2004	(282173)
7	09/26/2004	(291471)
8	07/12/2005	(395754)
9	08/17/2005	(405450)
10	08/24/2005	(405873)
11	08/30/2005	(405881)
12	05/21/2006	(455623)
13	07/31/2006	(488607)
14	08/01/2007	(570455)

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

Date:	04/30/2003	(34419)		
Self Report?	NO		Classification:	Moderate
Citation:	TWC Chapter 26 26.121[G]			
Description:	Unauthorized discharge of process water.			
Date:	05/23/2006	(455623)		
Self Report?	NO		Classification:	Moderate
Citation:	1 THC Chapter 1 1.001(a)			
Description:	Failure to properly certify the storm water pollution prevention plan.			
Self Report?	NO		Classification:	Moderate
Rqmt Prov:	PERMIT MSGP, Part III, Section A(3)(c)			
Description:	Failure to properly sign the Certification of Evaluation of Storm Water System.			
Self Report?	NO		Classification:	Minor
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(b)(2)			
Description:	Failure to properly implement procedures to minimize leak and spills from you fluid storage area.			
Self Report?	NO		Classification:	Minor
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(d)			
Description:	Failure to properly document the amount of sediment removed from sedimentation basin.			
Self Report?	NO		Classification:	Minor
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(f)			
Description:	Failure to document training for employees.			
Self Report?	NO		Classification:	Minor
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(g)			
Description:	Failure to provide an adequate checklist for periodic inspections.			
Self Report?	NO		Classification:	Moderate
Rqmt Prov:	PERMIT MSGP, Part III, Section A(7)(c)			
Description:	Failure to complete an annual comprehensive compliance evaluation report.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to properly notify TCEQ of both unauthorized and other discharges.			

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  
CEMEX CONSTRUCTION  
MATERIALS, L.P.  
RN102437274

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-1314-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 Cemex Construction Materials, L.P. ("Cemex") 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 Cemex appear before the Commission and together stipulate that:

1. Cemex owns and operates a quarry and rock crushing plant at 2682 Wald Road in New Braunfels, Comal 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 Cemex agree that the Commission has jurisdiction to enter this Agreed Order, and that Cemex is subject to the Commission's jurisdiction.
4. Cemex received notice of the violations alleged in Section II ("Allegations") on or about August 8, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Cemex of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Nine Hundred Fifty Dollars (\$4,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Cemex has paid Three Thousand Nine Hundred Sixty Dollars (\$3,960) of the

# PROCEEDINGS OF THE 1988 ANNUAL MEETING



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10. The State of the Science of Psychology: A Personal Perspective

- administrative penalty and Nine Hundred Ninety Dollars (\$990) is deferred contingent upon Cemex'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 Cemex fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Cemex 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 Cemex 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 Cemex has implemented the following corrective measures at the Plant:
    - a. Submitted a deviation report on July 30, 2007 that included the deviation for failing to submit the annual compliance certification ("ACC") within 30 days after the May 22, 2005 to May 21, 2006 certification period; and
    - b. Submitted the ACC on July 27, 2007 for the May 22, 2006 to May 21, 2007 certification period.
  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 Cemex 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, Cemex is alleged to have failed to report a deviation within 30 days after the end of the deviation reporting period and to submit the ACC within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.145(2)(C) and 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 31, 2007. Specifically, the deviation for failing to submit an ACC within 30 days after the May 22, 2005 to May 21, 2006 reporting period was required to be submitted by December 21, 2006, but was not submitted until July 30, 2007. The ACC for the May 22, 2006 to May 21, 2007 certification period was required to be submitted by June 20, 2007, but was not submitted until July 27, 2007.



### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Cemex pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Cemex'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: Cemex Construction Materials, L.P., Docket No. 2007-1314-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 Cemex. Cemex 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 Cemex 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 Cemex, or three days after the date on which the Commission mails notice of the Order to Cemex, 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

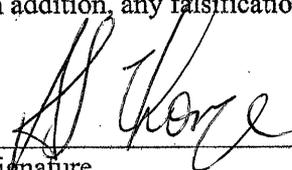
\_\_\_\_\_  
Date 12/20/2007

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 1st NOV 2007

ALWYN S. THORPE  
Name (Printed or typed)  
Authorized Representative of  
Cemex Construction Materials, L.P.

DIRECTOR OF AGG PRODUCTION  
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.

Handwritten title or section header.

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