

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0362-WQ-E TCEQ ID: RN104332945 CASE NO.: 37308**  
**RESPONDENT NAME: RIVER CITY READY MIX, INC.**

<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 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

**SITE WHERE VIOLATION(S) OCCURRED:** 19485 Marbach Lane, Bracken, Comal County

**TYPE OF OPERATION:** Concrete batch plant and quarry

**SMALL BUSINESS:**  Yes  No  N/A

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired October 26, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Harvey Wilson, Water Enforcement Section, MC 149, (512) 239-0321

**TCEQ Regional Contact:** Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050

**Respondent:** Mr. Arturo Lopez, President & Registered Agent, River City Ready Mix, Inc., P.O. Box 681085, San Antonio, Texas 78268

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> November 5, 2008 through December 5, 2008</p> <p><b>Date of NOE Relating to this Case:</b> February 6, 2009</p> <p><b>Background Facts:</b> The EDRP was filed on June 29, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on August 19, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent submitted its Notice of Intent letter to comply with the Storm Water Multi-Sector General Permit requirements on March 17, 2009.</p> <p><b>WQ:</b> Failed to obtain a Multi-Sector General Permit to discharge storm water associated with industrial activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c)].</p>	<p><b>Total Assessed:</b> \$6,250</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$825/\$5,425</p> <p>The Respondent paid \$825 of the administrative penalty. The remaining amount of \$5,425 shall be payable in 35 monthly payments of \$155 each.</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>Corrective Actions Taken:</b> The Executive Director recognizes that the Respondent submitted its Notice of Intent letter to comply with the Storm Water Multi-Sector General Permit requirements on March 17, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, develop and begin implementing a Storm Water Pollution Prevention Plan.</li> <li>2. Within 45 days, submit written certification demonstrating compliance with Ordering Provision no. 1.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

DATES	Assigned	2-Feb-2009	Screening	16-Mar-2009	EPA Due	
	PCW	2-Jun-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	RIVER CITY READY MIX INC		
Reg. Ent. Ref. No.	RN104332945		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37308	No. of Violations	1
Docket No.	2009-0362-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
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**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts    
 Approx. Cost of Compliance    
 \*Capped at the Total EB \$ Amount

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 16-Mar-2009

**Docket No.** 2009-0362-WQ-E

**PCW**

**Respondent** RIVER CITY READY MIX INC

Policy Revision 2 (September 2002)

**Case ID No.** 37308

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN104332945

**Media [Statute]** Water Quality

**Enf. Coordinator** Harvey Wilson

### 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 <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgments or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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)** 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**

An enhancement is recommended because the Respondent received one NOV for the same violation and one 1660-Agreed Order with denial.

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

<b>Screening Date</b> 16-Mar-2009	<b>Docket No.</b> 2009-0362-WQ-E	<b>PCW</b>																			
<b>Respondent</b> RIVER CITY READY MIX INC	<small>Policy Revision 2 (September 2002)</small>																				
<b>Case ID No.</b> 37308	<small>PCW Revision October 30, 2008</small>																				
<b>Reg. Ent. Reference No.</b> RN104332945																					
<b>Media [Statute]</b> Water Quality																					
<b>Enf. Coordinator</b> Harvey Wilson																					
<b>Violation Number</b> <input type="text" value="1"/>																					
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)"/>																				
<b>Violation Description</b>	<input ("tpdes")="" a="" activities.="" and="" associated="" batch="" concrete="" discharge="" elimination="" industrial="" msgp="" msgp")="" operating="" permit."="" plant="" pollutant="" quarry="" respondent="" specifically,="" storm="" system="" texas="" the="" to="" type="text" value="Failed to obtain a Multi-Sector General permit (" was="" water="" with="" without=""/>																				
<b>Base Penalty</b>	<input type="text" value="\$10,000"/>																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;"><b>Percent</b> <input type="text" value="0%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Harm																				
Release	Major	Moderate	Minor																		
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>																	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																		
<b>&gt;&gt; Programmatic Matrix</b>																					
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	Major	Moderate	Minor																		
Falsification	X	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>																	
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirements were not met."/>																				
<b>Adjustment</b>	<input type="text" value="\$9,000"/>																				
			<input type="text" value="\$1,000"/>																		
<b>Violation Events</b>																					
	<b>Number of Violation Events</b> <input type="text" value="5"/>	<input type="text" value="131"/> <b>Number of violation days</b>																			
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align: center;">X</td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	X	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b>	<input type="text" value="\$5,000"/>				
daily	<input type="text"/>																				
weekly	<input type="text"/>																				
monthly	X																				
quarterly	<input type="text"/>																				
semiannual	<input type="text"/>																				
annual	<input type="text"/>																				
single event	<input type="text"/>																				
<input type="text" value="Five monthly events are recommended from the date the violation was documented (November 5, 2008) until the date of screening (March 16, 2009)."/>																					
<b>Good Faith Efforts to Comply</b>			<input type="text" value="\$0"/>																		
	<b>0.0% Reduction</b>																				
	<small>Before NOV    NOV to EDPRP/Settlement Offer</small>																				
<b>Extraordinary</b>	<input type="text"/>																				
<b>Ordinary</b>	<input type="text"/>																				
<b>N/A</b>	X	<small>(mark with x)</small>																			
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria."/>																				
<b>Violation Subtotal</b>			<input type="text" value="\$5,000"/>																		
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>																		
<b>Estimated EB Amount</b>	<input type="text" value="\$49"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$6,250"/>																		
			<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$6,250"/>																		

## Economic Benefit Worksheet

**Respondent** RIVER CITY READY MIX INC  
**Case ID No.** 37308  
**Reg. Ent. Reference No.** RN104332945  
**Media** Water 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
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,000	5-Nov-2008	30-Oct-2009	0.98	\$49	n/a	\$49
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to develop and implement a storm water pollution plan and obtain a MSGP to discharge storm water associated with industrial activities. Date Required is the Date the violation was documented. Final Date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$49

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600522098 RIVER CITY READY MIX INC Classification: AVERAGE Rating: 4.88  
Regulated Entity: RN104332945 NACHODOCHES PIT Classification: AVERAGE Site Rating: 12.50  
ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER R13ST0127  
Location: 19485 MARBACH LN, BRACKEN, TEXAS  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: March 13, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 13, 2004 to March 13, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Harvey Wilson Phone: 239 - 0321

## 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? River City Ready Mix Inc
4. If Yes, who was/were the prior owner(s)? Cowboy Foundations and Construction, Inc.
5. When did the change(s) in ownership occur? 2/1/2007
6. Rating Date: 9/1/2008 Repeat Violator: NO

## 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: 07/03/2008 ADMINORDER 2005-0050-WQ-E  
Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(a)  
Description: Failure to obtain a storm water permit
- 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 | 07/16/2004 | (282626) |
| 2 | 12/13/2004 | (336288) |
| 3 | 02/21/2007 | (539353) |
| 4 | 02/05/2009 | (707481) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 07/16/2004 (282626)  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
Description: Failure to develop and implement a Storm Water Pollution Prevention Plan and obtain proper permit.
- 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  
RIVER CITY READY MIX, INC.;  
RN104332945

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0362-WQ-E

I. JURISDICTION AND STIPULATIONS

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

1. Ready Mix owns and operates a concrete batch plant and quarry located at 19485 Marbach Lane in Bracken, Comal County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Ready Mix agree that the Commission has jurisdiction to enter this Agreed Order, and that Ready Mix is subject to the Commission's jurisdiction.
4. Ready Mix received notice of the violations alleged in Section II ("Allegations") on or about February 11, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ready Mix of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of six thousand two hundred fifty dollars (\$6,250.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ready Mix paid eight hundred twenty-five dollars (\$825.00) of the

administrative penalty. The remaining amount of five thousand four hundred twenty-five dollars (\$5,425.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred fifty-five dollars (\$155.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Ready Mix fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Ready Mix's failure to meet the payment schedule of this Agreed Order constitutes the failure by Ready Mix to timely and satisfactorily comply with all of the terms of this Agreed Order

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 Ready Mix 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 Ready Mix submitted its Notice of Intent ("NOI") letter to comply with the Storm Water Multi-Sector General Permit ("MSGP") requirements to TCEQ on March 17, 2009.
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 Ready Mix 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

1. During an investigation conducted on November 5, 2008 through December 5, 2008, a TCEQ San Antonio Regional Office investigator documented that Ready Mix violated 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c), by failing to obtain a Multi-Sector General Permit ("MSGP") to discharge storm water associated with industrial

activities. Specifically, Ready Mix was operating a concrete bath plant and quarry without a Texas Pollutant Discharge Elimination System ("TPDES") MSGP permit.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ready Mix pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: River City Ready Mix, Inc., Docket No. 2009-0362-WQ-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. Ready Mix shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Ready Mix shall develop and begin implementing a Storm Water Pollution Prevention Plan ("SWPPP").
  - b. Within 45 days after the effective date of this Agreed Order, Ready Mix shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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.”

Ready Mix shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Mr. Tom Haberle, Water Section Manager  
Texas Commission on Environmental Quality  
San Antonio Regional Office  
14250 Judson Road  
San Antonio, Texas 78233-4480

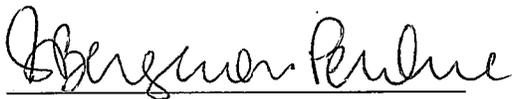
3. The provisions of this Agreed Order shall apply to and be binding upon Ready Mix. Ready Mix is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Ready Mix fails to comply with any of the Ordering 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, Ready Mix's failure to comply is not a violation of this Agreed Order. Ready Mix shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ready Mix shall notify the Executive Director within seven days after Ready Mix becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 Ready Mix shall be made in writing to the Executive Director. Extensions are not effective until Ready Mix receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Ready Mix, or three days after the date on which the Commission mails notice of this Agreed Order to 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

10/9/2009

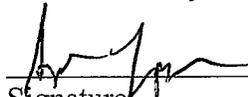
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 Ready Mix's compliance history;
- Greater scrutiny of any permit applications submitted by Ready Mix;
- 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 Ready Mix;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Ready Mix; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

8/19/09  
\_\_\_\_\_  
Date

ARTURO LOPEZ  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized representative of  
River City Ready Mix, Inc.

President  
\_\_\_\_\_  
Title