

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0767-IWD-E **TCEQ ID:** RNI05495535 **CASE NO.:** 37673

RESPONDENT NAME: Thomas Redi-Mix Company, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input 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>SITE WHERE VIOLATION(S) OCCURRED: Thomas Redi-Mix, 3600 West Loop 335 North, Amarillo, Potter County</p> <p>TYPE OF OPERATION: Redi-Mix concrete facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. John Thomas, President, Thomas Redi-Mix Company, Inc., P.O. Box 5664, Amarillo, Texas 79117 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 8, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for total suspended solids and pH [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110669, Part III Permit Requirements, Section A.].</p> <p>2) Failure to submit effluent monitoring results at intervals specified in the permit. Specifically, the Respondent failed to submit monitoring information for the pH minimum on the discharge monitoring reports ("DMR") for the monitoring periods ending May 31, 2008 and July 31, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES General Permit No. TXG110669, Part IV Standard Permit Conditions 7.(f)].</p>	<p>Total Assessed: \$6,909</p> <p>Total Deferred: \$1,381 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,528</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the complete DMRs for monitoring periods ending May 31, 2008 and July 31, 2008; and</p> <p>b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG110669 and Ordering Provision a, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): TXG110669



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	11-May-2009	Screening	21-May-2009	EPA Due	
	PCW	27-May-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Thomas Redi-Mix Company, Inc.
Reg. Ent. Ref. No.	RN105495535
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37673	No. of Violations	3
Docket No.	2009-0767-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
		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 \$4,700
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
Compliance History	50.0% Enhancement Subtotals 2, 3, & 7 \$2,350
Notes	Enhancement recommended for having nine NOV's for self-reported effluent violations and one NOV for similar violations within the last five years.
Culpability	No 0.0% Enhancement Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$0
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
<small>Total EB Amounts</small>	\$111
<small>Approx. Cost of Compliance</small>	\$1,050
	<small>*Capped at the Total EB \$ Amount</small>
SUM OF SUBTOTALS 1-7	Final Subtotal \$7,050
OTHER FACTORS AS JUSTICE MAY REQUIRE	-2.0% Adjustment -\$141
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	Recommended reduction to prevent double enhancement of the penalty for same violations that were self-reported.
	Final Penalty Amount \$6,909
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$6,909
DEFERRAL	20.0% Reduction Adjustment -\$1,381
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only, e.g. 20 for 20% reduction.)</small>	
Notes	Deferral offered for expedited settlement.
PAYABLE PENALTY	\$5,528

Screening Date 21-May-2009

Docket No. 2009-0767-IWD-E

PCW

Respondent Thomas Redi-Mix Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105495535

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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)	10	50%
	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%
<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) 50%

>> **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

Enhancement recommended for having nine NOVs for self-reported effluent violations and one NOV for similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date: 21-May-2009 **Docket No.:** 2009-0767-IWD-E **PCW**
Respondent: Thomas Redi-Mix Company, Inc. *Policy Revision 2 (September 2002)*
Case ID No.: 37673 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN105495535
Media [Statute]: Water Quality
Enf. Coordinator: Samuel Short
Violation Number: 1

Rule Cite(s): Tex. Water Code § 26-121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110669, Part III Permit Requirements, Section A.
Violation Description: Failed to comply with permit effluent limits for the monitoring periods ending May 31, 2008, July 31, 2008, and September 30, 2008, as documented during a record review conducted on February 9, 2009 and shown in the attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential	Percent	
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>

Matrix Notes: Human health or the environment has been exposed to insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="checkbox"/>
weekly	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty

Two quarterly events are recommended.

Good Faith Efforts to Comply Reduction

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

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Thomas Redi-Mix Company, Inc.
Case ID No.: 37673
Reg. Ent. Reference No.: RN105495535
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				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	31-Dec-2007	22-Feb-2010	2.15	\$107	n/a	\$107

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the expected 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

\$107

Screening Date	21-May-2009	Docket No.	2009-0767-IWD-E	PCW	
Respondent	Thomas Redi-Mix Company, Inc.	Policy Revision 2 (September 2002) PCW Revision October 30, 2008			
Case ID No.	37673				
Reg. Ent. Reference No.	RN105495535				
Media [Statute]	Water Quality				
Enf. Coordinator	Samuel Short				
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(17) and TPDES General Permit No. TXG410669, Part IV, Standard Permit Conditions 7.(f)				
Violation Description	Failed to submit effluent monitoring results at intervals specified in the permit, as documented during a record review conducted on February 9, 2009. Specifically, the Respondent failed to submit monitoring information for pH minimum on the discharge monitoring reports ("DMR") for the monitoring periods ending May 31, 2008 and July 31, 2008.				
Base Penalty				\$10,000	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
					Percent <input type="text" value="1%"/>
Matrix Notes	At least 70% of the rule requirement was met.				
Adjustment				\$9,900	
				<input type="text" value="\$100"/>	
Violation Events					
		Number of Violation Events	<input type="text" value="2"/>	Number of violation days	<input type="text" value="62"/>
mark only one with an x	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	<input checked="" type="checkbox"/>				
				Violation Base Penalty	\$200
Two single events are recommended.					
Good Faith Efforts to Comply					
		0.0% Reduction			<input type="text" value="\$0"/>
		Before NOV	NOV to EDP RP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="checkbox"/>	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal				\$200	
Economic Benefit (EB) for this violation					
		Estimated EB Amount	<input type="text" value="\$4"/>	Violation Final Penalty Total	<input type="text" value="\$294"/>
This violation Final Assessed Penalty (adjusted for limits)				\$294	

Economic Benefit Worksheet

Respondent: Thomas Redi-Mix Company, Inc.
Case ID No.: 37673
Reg. Ent. Reference No.: RN105498535
Media: Water Quality
Violation No.: 2

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

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	\$50	20-Jun-2008	22-Dec-2009	1.51	\$4	N/A	\$4
Training/Sampling				0.00	\$0	N/A	\$0
Remediation/Disposal				0.00	\$0	N/A	\$0
Permit Costs				0.00	\$0	N/A	\$0
Other (as needed)				0.00	\$0	N/A	\$0

Notes for DELAYED costs

The estimated cost to submit complete and accurate DMRs. Date required is the date the first complete DMR was due. The final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$50

TOTAL

\$4

Screening Date	21-May-2009	Docket No.	2009-0767-IWD-E	PCW
Respondent	Thomas Redi-Mix Company, Inc.	Policy Revision 2 (September 2002)		
Case ID No.	37673	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN105495535			
Media [Statute]	Water Quality			
Enf. Coordinator	Samuel Short			
Violation Number	3			
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110669, Part III Permit Requirements, Section A.			
Violation Description	Failed to comply with permit effluent limits for the monitoring period ending December 31, 2007, as documented during a record review conducted on February 9, 2009 and shown in the attached table.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="25%"/>
>> Programmatic Matrix				
Falsification				
Major Moderate Minor				
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
				Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
Adjustment				\$7,500
				\$2,500
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	Number of violation days <input type="text" value="31"/>	
mark only one with an x	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
				Violation Base Penalty <input type="text" value="\$2,500"/>
One monthly event is recommended.				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>			
Ordinary	<input type="checkbox"/>			
N/A	<input checked="" type="checkbox"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$2,500
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$0"/>		Violation Final Penalty Total <input type="text" value="\$3,675"/>		
This violation Final Assessed Penalty (adjusted for limits)				\$3,675

Economic Benefit Worksheet

Respondent: Thomas Redi-Mix Company, Inc.
Case ID No.: 37873
Reg. Ent. Reference No.: RN105495535
Media: Water Quality
Violation No.: 3

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

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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1.

Avoided Costs

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

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

\$0

TOTAL

\$0

Effluent Limit Violation Table

table rev.

Respondent: Thomas Redi-Mix Company, Inc.
 ID Number(s): TPDES General Permit No. TXG110669
 Docket Number: 2009-0767-IWD-E
 Ent. Coordinator: Samuel Short
 Corresponds to Violation Number: 1

EFFLUENT PARAMETER												
Permit Limit												
	TSS Daily max.	pH max.										
Month/Year	65 mg/L	9 su										
12/31/2007	c	11.49										
5/31/2008	174	9.2										
7/31/2008	c	9.43										
9/30/2008	112	9.08										

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
maximum	max.
standard units	su

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602602500 Thomas Redi-Mix Company, Inc.	Classification: AVERAGE	Rating: 1.00
Regulated Entity:	RN105495535 THOMAS REDI-MIX	Classification: HIGH	Site Rating: 0.00
ID Number(s):	WASTE WATER GENERAL PERMIT PERMIT		TXG110669
Location:	3600 W LOOP 335 N, AMARILLO, TX, 79108		
TCEQ Region:	REGION 01 - AMARILLO		
Date Compliance History Prepared:	May 21, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 21, 2004 to May 21, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Samuel Short	Phone:	(512) 239-5363

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
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.

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	03/11/2008	(698299)
2	03/11/2008	(719807)
3	03/11/2008	(719808)
4	03/11/2008	(719810)
5	03/11/2008	(719814)
6	03/11/2008	(719816)
7	03/11/2008	(719817)
8	03/11/2008	(719819)
9	03/24/2008	(719806)
10	03/24/2008	(719812)
11	03/24/2008	(719818)
12	04/10/2008	(698301)
13	04/25/2008	(698300)
14	05/12/2008	(698302)
15	06/16/2008	(719809)
16	07/11/2008	(719811)
17	08/08/2008	(719813)
18	09/22/2008	(719815)
19	09/30/2008	(734833)
20	10/14/2008	(734834)
21	11/10/2008	(734835)
22	12/16/2008	(734836)
23	02/25/2009	(726179)
24	04/29/2009	(743746)
25	05/08/2009	(726580)

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

Date: 05/31/2007 (719808) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2007 (719810) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2007 (719814) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2007 (719816) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2007 (719817) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2007 (719819) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2008 (719809) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2008 (719813) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2008 (734834) CN602602500
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/25/2009 (726179) CN602602500
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125
 TXG110669 Part III Section G 4 PERMIT
 Description: The facility has failed to post sign(s) stating that the water is from a non-potable water supply.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125
 TXG110669 Part III Section I 7(b) PERMIT
 Description: The facility failed to report an effluent violation that deviated from permitted effluent limitation by more than 40% to the TCEQ Enforcement Division (MC224) and the TCEQ Region 1, Amarillo Office within five working days of becoming aware of the noncompliance. The facility exceeded numeric effluent limitation for TSS (daily maximum limit 65.0 mg/L) by more than 40% during the sampling event conducted in September 2008.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125
 TXG110669 Part III Section I 8 PERMIT
 Description: The facility has failed to document adverse conditions which resulted in the temporary suspension of the permit requirement to sample.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125

TXG110669 Part III Section A PERMIT

Description:	A review of documentation received on April 23, 2009, indicated that the facility continues to fail to meet the numeric effluent limitations for pH.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125 TXG110669 Part III Section F 2(d) PERMIT	
Description:	The facility has failed to conduct and document the required Comprehensive Site Compliance Evaluation.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125 TXG110669 Part III Section F 2(b)(1) PERMIT	
Description:	The facility has failed to update and include on the site map the addition of approximately 6.5 acres, the location of the bag house, and the correct number of water pits located at the aggregate reclaimers.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125 TXG110669 Part III Section A PERMIT	
Description:	The facility has failed to maintain effluent quality within the numeric effluent limitations for Total Suspended Solids (TSS) (daily maximum limit 65.0 mg/L) during the following sampling event: TSS - 112.0 mg/L (09/2008).	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125 TXG110669 Part III Section F 2(b)(2) PERMIT	
Description:	The facility has failed to develop and include in the SWP3 an Inventory of Exposed Materials.	

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
THOMAS REDI-MIX COMPANY,
INC.
RN105495535

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0767-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 Thomas Redi-Mix Company, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a ready-mixed concrete facility at 3600 West Loop 335 North in Amarillo, Potter County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 13, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Nine Hundred Nine Dollars (\$6,909) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Five Hundred Twenty-Eight Dollars (\$5,528) of the

administrative penalty and One Thousand Three Hundred Eighty-One Dollars (\$1,381) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent 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, the Respondent is alleged to have:

1. Failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110669, Part III Permit Requirements, Section A., as documented during a record review conducted on February 9, 2009 and as shown in the table below.

<i>EFFLUENT PARAMETER</i>		
<i>Permit Limit</i>		
	TSS Daily max.	pH max.
<i>Month/Year</i>	65 mg/L	9 su
12/31/2007	c	11.49
5/31/2008	174	9.2
7/31/2008	c	9.43
9/30/2008	112	9.08

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
maximum	max.
standard units	su

2. Failed to submit effluent monitoring results at intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES General Permit No. TXG110669, Part IV Standard Permit Conditions 7.(f), as documented during a record review conducted on February 9, 2009. Specifically, the Respondent failed to submit monitoring information for pH minimum on the discharge monitoring reports ("DMR") for the monitoring periods ending May 31, 2008 and July 31, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Thomas Redi-Mix Company, Inc., Docket No. 2009-0767-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit the complete DMRs for monitoring periods ending May 31, 2008 and July 31, 2008 to:

Compliance Monitoring Section
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG110669 and Ordering Provision 2.a, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. 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 fines 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
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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.

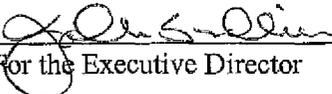
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

10/30/2009
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 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

8-27-09
Date

John Thomas

Name (Printed or typed)
Authorized Representative of
Thomas Redi-Mix Company, Inc.

President

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.