EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1334-IWD-E **TCEQ ID:** RN100800986 **CASE NO.:** 36394

RESPONDENT NAME: Metroplex Retaining Walls, Inc.

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

SITE WHERE VIOLATION(S) OCCURRED: Plant 1 Metroplex Redi-Mix, 11016 South Pipeline Road, Euless, Tarrant County

TYPE OF OPERATION: Concrete production plant

SMALL BUSINESS: X **Yes** ___ **No**

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 has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 2, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387

Respondent: Mr. Alan Richards, President, Metroplex Retaining Walls, Inc., 11016 South Pipeline Road, Euless, Texas 76040

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** May 12, 2008 **Date of NOV/NOE Relating to this Case:** July 25, 2008 (NOE) **Background Facts:** This was a record review. **WATER** 1) Failure to comply with the permitted effluent limitations for Outfalls 001A and 002A for pH, mercury, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110585, Part III. Permit Requirements, Section A]. 2) Failure to collect effluent samples for analysis of the permitted parameters and estimate discharge flows. Specifically, samples were not collected at outfalls 001A and 002A for the monthly monitoring periods ending June 30, November 30, and December 31, 2007 and February 29, March 31, and April 30, 2008. Also, flow from the outfalls was not estimated for the monitoring periods mentioned above plus monthly periods ending August 31 and October 31, 2007 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG110585, Part III. Permit Requirements, Section A]. 3) Failure to submit the required toxicity report. Specifically, the toxicity report for the annual monitoring period ending February 29, 2008 which includes outfalls 1 and 2, was not included in the discharge monitoring report ("DMR") for that period [30 TEX. ADMIN. CODE § 305.125(17) and	**Total Assessed:** $17,876 **Total Deferred:** $3,575 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $406 (remaining $13,895 due in 35 monthly payments of $397 each) **Site Compliance History Classification** _X_ **High** ___ **Average** ___ **Poor** **Person Compliance History Classification** ___ **High** _X_ **Average** ___ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Submit a revised DMR that includes the toxicity report for the monitoring period ending February 29, 2008; and ii. Update the Facility's operational guidance and conduct employee training to ensure that effluent samples are collected and analyzed for all permitted parameters at the required frequencies and ensure that monthly and annual self-reporting requirements are properly accomplished. b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.; c. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES General Permit No. TXG110585, Part III. Permit Requirements, Section 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; and d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and c.

TPDES General Permit No. TXG110585, Part III. Permit Requirements, Section D.3.].		

Additional ID No(s).: TPDES General Permit No. TXG110585

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 12, 2008*

TCEQ

DATES					
Assigned	28-Jul-2008				
PCW	15-Aug-2008	Screening	14-Aug-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Metroplex Retaining Walls, Inc.		
Reg. Ent. Ref. No.	RN100800986		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36394	No. of Violations	3
Docket No.	2008-1334-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha
		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* $13,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 35.0% Enhancement — *Subtotals 2, 3, & 7* $4,550

Notes: Enhancement for one NOV with same or similar violations and six NOVs for self-reported effluent violations.

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

Total EB Amounts $464
Approx. Cost of Compliance $1,700

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $17,550

OTHER FACTORS AS JUSTICE MAY REQUIRE 1.9% — *Adjustment* $326

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover the avoided costs associated with the economic benefit of violation No. 2.

Final Penalty Amount $17,876

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $17,876

DEFERRAL 20.0% Reduction — *Adjustment* -$3,575

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $14,301

Screening Date 14-Aug-2008 **Docket No.** 2008-1334-IWD-E **PCW**

Respondent Metroplex Retaining Walls, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36394

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100800986

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

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*)	7	35%
	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 judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

>> Repeat Violator (Subtotal 3)

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 for one NOV with same or similar violations and six NOVs for self-reported effluent violations.

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

Screening Date 14-Aug-2008 **Docket No.** 2008-1334-IWD-E **PCW**

Respondent Metroplex Retaining Walls, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36394

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100800986

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

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. TXG110585, Part III. Permit Requirements, Section A.

Violation Description Failed to comply with the permitted effluent limitations for Outfalls 001A and 002A, as shown in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 | 91 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $4,000

Four quarterly events are assessed (two events for each outfall).

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal $4,000

Economic Benefit (EB) for this violation

Estimated EB Amount $119

Statutory Limit Test

Violation Final Penalty Total $5,500

This violation Final Assessed Penalty (adjusted for limits) $5,500

Economic Benefit Worksheet

Respondent Metroplex Retaining Walls, Inc.
Case ID No. 36394
Reg. Ent. Reference No. RN100800986
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$1,000	31-Aug-2007	13-May-2009	1.70	$6	$113	$119
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: Estimated costs to evaluate and identify problems and implement corrective actions. The date required is the first month 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)							
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 $119

Screening Date 14-Aug-2008 **Docket No.** 2008-1334-IWD-E **PCW**

Respondent Metroplex Retaining Walls, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 36394 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN100800986

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG110585, Part III. Permit Requirements, Section A.

Violation Description Failed to collect effluent samples for analysis of the permitted parameters and estimate discharge flows. Specifically, samples were not collected at Outfalls 001A and 002A for the monthly monitoring periods ending June 30, November 30, and December 31, 2007 and February 29, March 31, and April 30, 2008. Also flow from the outfalls was not estimated for the monitoring periods mentioned above plus monthly periods ending August 31 and October 31, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to analyze effluent samples and measure flow at the minimum frequencies may result in unknown effluent excursions and a release of insignificant amounts of pollutants.

Adjustment $9,500

$500

Violation Events

Number of Violation Events 16 | 243 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $8,000

Sixteen single events are recommended (eight events for each outfall).

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal $8,000

Economic Benefit (EB) for this violation

Estimated EB Amount $335

Statutory Limit Test

Violation Final Penalty Total $11,001

This violation Final Assessed Penalty (adjusted for limits) $11,001

Economic Benefit Worksheet

Respondent Metroplex Retaining Walls, Inc.
Case ID No. 36394
Reg. Ent. Reference No. RN100800986
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$200	12-May-2008	13-Mar-2009	0.84	$8	n/a	$8
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: Estimated cost to update operational guidance and conduct employee training to ensure that all sampling is properly accomplished at the minimum frequencies. Date required is the investigation date. 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]	$300	30-Jun-2007	30-Apr-2008	1.75	$26	$300	$326
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs: Estimated cost to collect and analyze six samples at $25 per sample for each outfall. Date required is the end of the first noncompliant month and the final date is the end of the last noncompliant month.

Approx. Cost of Compliance $500

TOTAL $335

Screening Date 14-Aug-2008 **Docket No.** 2008-1334-IWD-E **PCW**

Respondent Metroplex Retaining Walls, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 36394 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN100800986

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES General Permit No. TXG110585, Part III Permit Requirements, Section D.3.

Violation Description Failed to submit the required toxicity report. Specifically, the toxicity report for the annual monitoring period ending February 29, 2008 which includes Outfalls 1 and 2, was not included in the discharge monitoring report for that period.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 94 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $11

Statutory Limit Test

Violation Final Penalty Total $1,375

This violation Final Assessed Penalty (adjusted for limits) $1,375

Economic Benefit Worksheet

Respondent Metroplex Retaining Walls, Inc.
Case ID No. 36394
Reg. Ent. Reference No. RN100800986
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$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)	$200	20-Mar-2008	13-Apr-2009	1.07	$11	n/a	$11

Notes for DELAYED costs: Estimated cost to prepare and submit the missing report. The date required is the date the report was due and 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: $200

TOTAL: $11

EFFLUENT VIOLATION TABLE

Metroplex Retaining Walls, Inc.
TPDES General Permit No. TXG110585
Docket No. 2008-1334-IWD-E

Monitoring Period End Date	pH max. conc.	TSS daily max. conc.	Hg monthly max. avg. conc.	Hg daily max. sing. grab
	Limit = 9.0 s.u.	Limit = 65 mg/L	Limit = 0.005 mg/L	Limit = 0.01 mg/L
Outfall 001A				
8/31/2007	11.05	120	c	c
2/29/2008	c	c	< 0.059	< 0.059
Outfall 002A				
8/31/2007	11.13	120	c	c
10/31/2007	c	96	c	c
2/29/2008	c	c	< 0.059	< 0.059

mg/L = milligrams per liter
MGD = million gallons per day
max. = maximum
s.u. = standard units
Hg = mercury
TSS = total suspended solids
c = compliant
avg. = average
conc. = concentration
sing. = single

Compliance History

Customer/Respondent/Owner-Operator:	CN601528953	Metroplex Retaining Walls, Inc.	Classification: AVERAGE	Rating: 1.82
Regulated Entity:	RN100800986	PLANT 1 METROPLEX REDI-MIX	Classification: HIGH	Site Rating:0.00

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	71916
	WASTE WATER GENERAL PERMIT	PERMIT	TXG110585
	AIR NEW SOURCE PERMITS	PERMIT	21591
Location:	11016 S PIPELINE RD, EULESS, TX, 76040	Rating Date:Sept 01 07	Repeat Violator: NO

TCEQ Region:	REGION 04 - DFW METROPLEX
Date Compliance History Prepa:	August 08, 2008
Agency Decision Requiring Compliance	Enforcement
Compliance Period:	August 08, 2003 to August 08, 2008

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

Name: Thomas Jecha Phone: 512 239 2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. if Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

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	11/04/2004	(340107)
2	01/18/2005	(449135)
3	01/18/2005	(449136)
4	01/18/2005	(449137)
5	01/18/2005	(449138)
6	05/03/2005	(449133)
7	05/03/2005	(449134)
8	10/31/2005	(496339)
9	10/31/2005	(496340)
10	10/31/2005	(496341)
11	10/31/2005	(496342)
12	10/31/2005	(496343)
13	10/31/2005	(496344)
14	07/17/2006	(530608)
15	07/17/2006	(530609)
16	07/17/2006	(530610)
17	07/17/2006	(530611)
18	05/17/2007	(556330)
19	10/19/2007	(607428)
20	10/25/2007	(606975)

21 10/25/2007 (606977)
22 10/25/2007 (606979)
23 10/25/2007 (606981)
24 10/25/2007 (606983)
25 10/26/2007 (606974)
26 10/26/2007 (606976)
27 10/26/2007 (606978)
28 10/26/2007 (606980)
29 10/26/2007 (606982)
30 10/26/2007 (606984)
31 10/26/2007 (606985)
32 10/26/2007 (606986)
33 10/26/2007 (606987)
34 10/26/2007 (606988)
35 10/26/2007 (606989)
36 10/30/2007 (635357)
37 10/31/2007 (635360)
38 11/08/2007 (635358)
39 11/08/2007 (635359)
40 11/08/2007 (635361)
41 12/19/2007 (635362)
42 01/29/2008 (678774)
43 02/20/2008 (678771)
44 03/18/2008 (678772)
45 04/24/2008 (678773)
46 07/25/2008 (670695)

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

Date 03/31/2006 (606977)
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 08/31/2006 (635357)
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 12/31/2006 (606989)
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 (635358)
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 10/19/2007 (607428)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
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Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Date 10/31/2007 (635361)
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 02/29/2008
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

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

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING METROPLEX RETAINING WALLS, INC. RN100800986	§ § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-1334-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 Metroplex Retaining Walls, 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 concrete production plant at 11016 South Pipeline Road in Euless, Tarrant 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 July 30, 2008.

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 Seventeen Thousand Eight Hundred Seventy-Six Dollars ($17,876) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid Four Hundred Six Dollars ($406) of the administrative penalty and Three Thousand Five Hundred Seventy-Five Dollars ($3,575) 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.

The remaining amount of Thirteen Thousand Eight Hundred Ninety-Five Dollars ($13,895) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Ninety-Seven Dollars ($397) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 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 the permitted effluent limitations for Outfalls 001A and 002A, 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. TXG110585, Part III. Permit Requirements, Section A, as documented during a record review conducted on May 12, 2008 and shown in the following table:

Monitoring Period End Date	pH max. conc.	TSS daily max. conc.	Hg monthly max. avg. conc.	Hg daily max. sing. grab
	Limit = 9.0 s.u.	Limit = 65 mg/L	Limit = 0.005 mg/L	Limit = 0.01 mg/L
Outfall 001A				
8/31/2007	11.05	120	c	c
2/29/2008	c	c	< 0.059	< 0.059
Outfall 002A				
8/31/2007	11.13	120	c	c
10/31/2007	c	96	c	c
2/29/2008	c	c	< 0.059	< 0.059

max= maximum, avg. = average, c = compliant, Hg = mercury, mg/L = milligrams per Liter
MGD = million gallons per day, conc. = concentration, s.u. = standard units, TSS = total suspended solids, sing. = single

2. Failed to collect effluent samples for analysis of the permitted parameters and estimate discharge flows, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG110585, Part III. Permit Requirements, Section A, as documented during a record review conducted on May 12, 2008. Specifically, samples were not collected at Outfalls 001A and 002A for the monthly monitoring periods ending June 30, November 30, and December 31, 2007 and February 29, March 31, and April 30, 2008. Also, flow from the outfalls was not estimated for the monitoring periods mentioned above plus monthly periods ending August 31 and October 31, 2007.

3. Failed to submit the required toxicity report, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES General Permit No. TXG110585, Part III. Permit Requirements, Section D.3., as documented during a record review conducted on May 12, 2008. Specifically, the toxicity report for the annual monitoring period ending February 29, 2008 which includes Outfalls 1 and 2, was not included in the discharge monitoring report for that period.

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: Metroplex Retaining Walls, Inc., Docket No. 2008-1334-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:

i. Submit a revised DMR that includes the toxicity report for the monitoring period ending February 29, 2008 to:

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

ii. Update the Facility's operational guidance and conduct employee training to ensure that effluent samples are collected and analyzed for all permitted parameters at the required frequencies and ensure that monthly and annual self-reporting requirements are properly accomplished.

b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.d. below;

c. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES General Permit No. TXG110585, Part III. Permit Requirements, Section A, as described in Ordering Provision No. 2.d. below, 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; and

d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 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.

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

Date 1/27/2009

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 1/21/09

ALAN RICHARDS

Name (Printed or typed)
Authorized Representative of
Metroplex Retaining Walls, 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.