

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1418-AIR-E TCEQ ID: RN100221993 CASE NO.: 36485**  
**RESPONDENT NAME: Acme Brick Company**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Acme Brick Company Texas Clay Plant, 700 West Bartlett, Malakoff, Henderson County</p> <p><b>TYPE OF OPERATION:</b> Brick manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 23, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney/SEP Coordinator:</b> None</p> <p><b>TCEQ Enforcement Coordinator:</b> Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387</p> <p><b>Respondent:</b> Mr. Jason Pence, Environmental Manager, Acme Brick Company, 700 West Bartlett, Malakoff, Texas 75148          Mr. Gregg Sublett, Regional Production Manager, Acme Brick Company, 700 West Bartlett, Malakoff, Texas 75148</p> <p><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 21, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 29, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to timely submit an annual compliance certification ("ACC") and semi-annual deviation report. Specifically, the Respondent did not submit the ACC for the October 3, 2005 to October 2, 2006 reporting period nor the semi-annual deviation report for the October 3, 2006 to April 2, 2007 reporting period, until October 24, 2007 [30 TEX. ADMIN. CODE §§ 122.146(2), 122.145(2)(B) and (C), and 122.143(4), Federal Operating Permit O-01784, General Terms and Conditions, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$3,850</p> <p><b>Total Deferred:</b> \$770  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,080</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the ACC for the October 3, 2005 to October 2, 2006 reporting period, and the semi-annual deviation report for the October 3, 2006 to April 2, 2007 reporting period, on October 24, 2007.</p>

Additional ID No(s): HM0016J



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	<b>Assigned</b>	2-Sep-2008	<b>Screening</b>	4-Sep-2008	<b>EPA Due</b>	26-May-2009
	<b>PCW</b>	4-Sep-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Acme Brick Company
<b>Reg. Ent. Ref. No.</b>	RN100221993
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36485	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-1418-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kirk Schoppe
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	2.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$100
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Notes: Enhancement due to one dissimilar violation within the last five years.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,250
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$12  
 Approx. Cost of Compliance: \$250  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,850
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$3,850
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,850
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$770
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$3,080
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**Screening Date** 4-Sep-2008

**Docket No.** 2008-1418-AIR-E

**PCW**

**Respondent** Acme Brick Company

Policy Revision 2 (September 2002)

**Case ID No.** 36485

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN100221993

**Media [Statute]** Air

**Enf. Coordinator** Kirk Schoppe

### 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>	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <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)** 2%

>> **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 due to one dissimilar violation within the last five years.

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

<b>Screening Date</b> 4-Sep-2008	<b>Docket No.</b> 2008-1418-AIR-E	<b>PCW</b>	
<b>Respondent</b> Acme Brick Company		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 36485		<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN100221993			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Kirk Schoppe			
<b>Violation Number</b> 1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 122.146(2), 122.145(2)(B) and (C), and 122.143(4), Federal Operating Permit O-01784, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to timely submit an annual compliance certification (ACC) report and semi-annual deviation report. Specifically, the Respondent did not submit the ACC for the October 3, 2005 to October 2, 2006 reporting period nor the semi-annual deviation report for the October 3, 2006 to April 2, 2007 reporting period, until October 24, 2007, as documented during an investigation conducted on August 21, 2008.		
	<b>Base Penalty</b>	\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	<b>Release</b>	Major    Moderate    Minor	
	Actual	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	<b>Falsification</b>	Major    Moderate    Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
			<b>Percent</b> <input type="text" value="25%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
	<b>Adjustment</b>	\$7,500	
			<b>\$2,500</b>
<b>Violation Events</b>			
<b>Number of Violation Events</b>	<input type="text" value="2"/>	<b>Number of violation days</b>	<input type="text" value="532"/>
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text" value="x"/>	
	Two single events are recommended.		
<b>Good Faith Efforts to Comply</b>			
	<b>25.0% Reduction</b>		<b>\$1,250</b>
	<small>Before NOV    NOV to EDCRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
<b>Notes</b>	The Respondent returned to compliance on 10/24/2007, and the NOE is dated 08/29/2008.		
	<b>Violation Subtotal</b>	\$3,750	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	<input type="text" value="\$12"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$3,850"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$3,850"/>

## Economic Benefit Worksheet

**Respondent** Acme Brick Company  
**Case ID No.** 36485  
**Reg. Ent. Reference No.** RN100221993  
**Media** Air  
**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

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	\$250	1-Nov-2006	24-Oct-2007	0.98	\$12	n/a	\$12
Training/Samplings				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 of preparation and submittal of an annual compliance certification and semi-annual deviation report. Date required is the date the reports should have been submitted. Final date is the date the annual compliance certification and semi-annual deviation report were received.

### 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/Samplings				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

\$250

**TOTAL**

\$12

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600124549	Acme Brick Company	Classification: AVERAGE	Rating: 1.96
Regulated Entity:	RN100221993	ACME BRICK COMPANY TEXAS CLAY PLANT	Classification: AVERAGE	Site Rating: 0.75

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HM0016J
	AIR OPERATING PERMITS	PERMIT	1784
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	43296
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HM0016J
	AIR NEW SOURCE PERMITS	PERMIT	8560
	AIR NEW SOURCE PERMITS	PERMIT	15194
	AIR NEW SOURCE PERMITS	PERMIT	45073
	AIR NEW SOURCE PERMITS	PERMIT	45874
	AIR NEW SOURCE PERMITS	AFS NUM	4821300007
	AIR NEW SOURCE PERMITS	PERMIT	73815

Location: 700 W BARTLETT, MALAKOFF, TX, 75148      Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: October 08, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 08, 2003 to October 08, 2008

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

Name: Kirk Schoppe      Phone: (512) 239 - 0489

### 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	01/12/2005	(342543)
N/A	2 12/15/2005	(436178)
	3 08/29/2008	(700725)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/29/2008 (700725)  
N/A Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: PERMIT O-01784, Special Terms and Condition 6  
Description: Failure to document visible observations during the 2006 and 2007 compliance certification periods.

F. Environmental audits.

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  
ACME BRICK COMPANY  
RN100221993**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-1418-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Acme Brick Company ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a brick manufacturing plant at 700 West Bartlett in Malakoff, Henderson County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and 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 September 3, 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 Three Thousand Eight Hundred Fifty Dollars (\$3,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Eighty Dollars (\$3,080) of the administrative penalty and Seven Hundred Seventy Dollars (\$770) is deferred contingent upon the



Respondent's timely and satisfactory compliance with all 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 recognizes that the Respondent submitted the annual compliance certification ("ACC") for the October 3, 2005 to October 2, 2006 reporting period, and the semi-annual deviation report for the October 3, 2006 to April 2, 2007 reporting period, on October 24, 2007.
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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to timely submit an ACC and semi-annual deviation report, in violation of 30 TEX. ADMIN. CODE §§ 122.146(2), 122.145(2)(B) and (C), and 122.143(4), Federal Operating Permit O-01784, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 21, 2008. Specifically, the Respondent did not submit the ACC for the October 3, 2005 to October 2, 2006 reporting period nor the semi-annual deviation report for the October 3, 2006 to April 2, 2007 reporting period, until October 24, 2007.

## 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: Acme Brick Company, Docket No. 2008-1418-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to 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

*John S. [Signature]*  
For the Executive Director

11/30/2009  
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.

*Gregg Sablett*  
Signature

11-21-08  
Date

Gregg Sablett  
Name (Printed or typed)  
Authorized Representative of  
Acme Brick Company

Regional Production Manager  
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.

