

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1957-AIR-E **TCEQ ID:** RN100805613 **CASE NO.:** 36963

**RESPONDENT NAME:** Ingram Concrete, LLC

<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> Concrete Batch Plant 23, 1884 Mineral Wells Highway, Weatherford, Parker County</p> <p><b>TYPE OF OPERATION:</b> Ready-mixed concrete plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on May 19, 2008, alleging that dust was emanating from the Respondent's property and impacting adjacent properties. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 27, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Dennis Morris, Safety and Environmental Supervisor, Ingram Concrete, LLC, P.O. Box 1166, Brownwood, Texas 76804                      Mr. Jeff Roberts, Vice President/General Manager, Ingram Concrete, LLC, P.O. Box 1166, Brownwood, Texas 76804  <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 checked="" type="checkbox"/> Complaint  <input 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> May 19, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> May 27 through June 5, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 2, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>AIR</b></p> <p>1) Failure to control particulate emissions adequately enough as to not cause a nuisance situation that adversely affects human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property on June 5, 2008 [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH &amp; SAFETY CODE § 382.085(a) and (b)].</p> <p>2) Failure to comply with Permit by Rule Registration No. 44504 [effective August 21, 2000]. Specifically, the Respondent failed to vent the cement weigh hopper to its own fabric filter or the central dust collection system [30 TEX. ADMIN. CODE § 106.201(4) [repealed June 30, 2004] and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$4,050</p> <p><b>Total Deferred:</b> \$810  <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> \$3,240</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On June 5, 2008, vented the cement weigh hopper to its own fabric filter;</p> <p>b. During July 2008, applied river gravel and installed area type sprinklers to control dust in the unpaved stockpile area in the northwest corner of the Plant and added a full-time sweeper for cleaning paved areas;</p> <p>c. On January 9, 2009, paved the stockpile area; and</p> <p>d. On January 13, 2009, built bunkers around the stockpile area.</p>

Additional ID No(s): PC0290P



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	1-Dec-2008	Screening	22-Dec-2008	EPA Due	
	PCW	22-Dec-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Ingram Concrete, LLC		
Reg. Ent. Ref. No.	RN100805613		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36963	No. of Violations	2
Docket No.	2008-1957-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 4
Maximum	\$10,000		

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$3,500

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 30.0% Enhancement Subtotals 2, 3, & 7 \$1,050

Notes: The penalty was enhanced for one 1660 order and two same or similar NOV's.

**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 \$500

**Economic Benefit** 0.0% Enhancement\* Subtotal 6 \$0

Total EB Amounts \$1,512  
Approx. Cost of Compliance \$43,700

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$4,050

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** \$4,050

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$4,050

**DEFERRAL** 20.0% Reduction Adjustment -\$810

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$3,240

Screening Date 22-Dec-2008

Docket No. 2008-1957-AIR-E

PCW

Respondent Ingram Concrete, LLC

Policy Revision 2 (September 2002)

Case ID No. 36963

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100805613

Media [Statute] Air

Enf. Coordinator Miriam Hall

### 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)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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%
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) 30%

>> 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

The penalty was enhanced for one 1660 order and two same or similar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

**Screening Date** 22-Dec-2008 **Docket No.** 2008-1957-AIR-E **PCW**  
**Respondent** Ingram Concrete, LLC *Policy Revision 2 (September 2002)*  
**Case ID No.** 36963 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN100805613  
**Media [Statute]** Air  
**Enf. Coordinator** Miriam Hall  
**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)  
**Violation Description** Failed to control particulate emissions adequately enough as to not cause a nuisance situation that adversely affects human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property on June 5, 2008.  
**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Human health or the environment has been exposed to a significant amount of pollutants as a result of this violation.

**Adjustment** \$7,500

\$2,500

Violation Events

Number of Violation Events: 1 Number of violation days: 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

**Violation Base Penalty** \$2,500

One single event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$250

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

**Notes** Corrective measures were completed on January 13, 2009, and the NOE was issued December 2, 2008.

**Violation Subtotal** \$2,250

Economic Benefit (EB) for this violation Statutory Limit Test

**Estimated EB Amount** \$1,512

**Violation Final Penalty Total** \$3,000

**This violation Final Assessed Penalty (adjusted for limits)** \$3,000

## Economic Benefit Worksheet

**Respondent** Ingram Concrete, LLC  
**Case ID No.** 36963  
**Reg. Ent. Reference No.** RN100805613  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment	\$7,500	5-Jun-2008	1-Jul-2008	0.07	\$2	\$36	\$37
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$34,500	5-Jun-2008	13-Jan-2009	0.61	\$70	\$1,399	\$1,469
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)	\$1,600	5-Jun-2008	1-Jul-2008	0.07	\$6	n/a	\$6

Notes for DELAYED costs

The "Date Required" is the date of the violation and the "Final Date" is the date the corrective actions were completed. The various costs: The equipment cost is for a full-time dedicated sweeping machine. The engineering/construction cost is the cost of paving and improvements to the stockpile area which includes concrete, labor, waste removal, and construction of bunker walls. The other cost is for interim corrective measures - applying river gravel to the stockpile area and adding sprinklers.

**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

\$43,600

TOTAL

\$1,512

<b>Screening Date</b> 22-Dec-2008	<b>Docket No.</b> 2008-1957-AIR-E	<b>PCW</b>	
<b>Respondent</b> Ingram Concrete, LLC		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 36963		<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN100805613			
<b>Media [Statute]</b> Air			
<b>Enf. Coordinator</b> Miriam Hall			
<b>Violation Number</b> 2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 106.201(4) [repealed June 30, 2004] and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to comply with Permit by Rule Registration No. 44504 [effective August 21, 2000]. Specifically, the Respondent failed to vent the cement weigh hopper to its own fabric filter or the central dust collection system.		
	<b>Base Penalty</b>	\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	<b>Percent</b> 10%
	Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major      Moderate      Minor	
	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		<b>Percent</b> 0%
<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.		
	<b>Adjustment</b>	\$9,000	
			\$1,000
<b>Violation Events</b>			
	Number of Violation Events	1	Number of violation days
		9	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> \$1,000
	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"/>	
	One quarterly event is recommended from May 27, 2008 to June 5, 2008.		
<b>Good Faith Efforts to Comply</b>			\$250
	<b>25.0%</b> Reduction		
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent came into compliance by June 5, 2008 and the NOE was issued December 2, 2008.		
	<b>Violation Subtotal</b>	\$750	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
	Estimated EB Amount	\$0	Violation Final Penalty Total
			\$1,050
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,050	

## Economic Benefit Worksheet

**Respondent** Ingram Concrete, LLC  
**Case ID No.** 36963  
**Reg. Ent. Reference No.** RN100805613  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)	\$100	27-May-2008	5-Jun-2008	0.02	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for routing the cement weigh hopper to its own fabric filter from the first date that the violation was documented to the compliance date.

**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

\$100

TOTAL

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603378241 Ingram Concrete, LLC	Classification: AVERAGE	Rating: 9.89
Regulated Entity:	RN100805613 CONCRETE BATCH PLANT 23	Classification: POOR	Site Rating: 120.00
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	44504
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	PC0290P
	WASTE WATER GENERAL PERMIT	PERMIT	TXG110734
	STORMWATER	PERMIT	TXR05U271
Location:	1884 MINERAL WELLS HWY, WEATHERFORD, TX, 76088		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	January 08, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 08, 2004 to January 08, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Miriam Hall	Phone:	(512) 239-1044

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Ingram Concrete, LLC
4. If Yes, who was/were the prior owner(s)? Ingram Enterprises, L.P.  
Transit Mix Concrete & Materials Company  
J. Greene Concrete, Inc.
5. When did the change(s) in ownership occur? 06/27/2005
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
  - Effective Date: 08/23/2007 ADMINORDER 2007-0361-AIR-E
  - Classification: Moderate
  - Citation: 30 TAC Chapter 101, SubChapter A 101.4
  - Description: Failed to prevent particulate emissions from causing a nuisance condition, as documented during an investigation conducted on August 1, 2006. Specifically, dust emanating from material stockpiles, waste piles, and in-plant roads was impacting off-site receptors.
  - Classification: Moderate
  - Citation: 30 TAC Chapter 106, SubChapter H 106.201(1)
  - Description: Failed to maintain a sprinkler system operable at all times, as documented during an investigation conducted August 1, 2006. Specifically, the stockpile sprinkler had been disconnected pending installation of a high-pressure sprinkler system.
- 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 11/24/2008 (701279)
  - N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - Date: 08/31/2005 (397863)
  - Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter H 106.201(1)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain the stockpile sprinkler system operable at all times as required by 30 TAC § 106.201(1).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter H 106.201(3)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to keep all batch trucks and material delivery trucks on a paved surface when entering, conducting primary functions, and leaving there property, and failure to water, treat with dust-suppressant chemicals, oil, or pave and clean other areas on the property subject to vehicle traffic as necessary to achieve max

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter H 106.201(6)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to control dust emissions at the batch drop point as required by 30 TAC § 106.201(6).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
 5C THC Chapter 382, SubChapter A 382.085(a)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to prevent nuisance conditions as required by 30 TAC § 101.4.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.4(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain all emission control equipment in good condition and operating properly during operation of the facility as required by 30 TAC § 106.4(c).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(3)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain records at the facility to demonstrate compliance as required by 30 TAC § 106.8(c)(3).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter K 106.264(7)  
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to notify the TCEQ within ten days following the installation of the replacement facility as required by 30 TAC § 106.264(7).

Date: 05/06/2008 (639226)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4  
 5C THSC Chapter 382 382.085(a)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to control particulate emissions adequately enough as to not adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property as required by 30 TAC § 101.4.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(A)  
 5C THSC Chapter 382 382.085(b)

Description: Maintain records containing sufficient information to demonstrate compliance with all applicable general requirements of 30 TAC §106.4 as required by 30 TAC § 106.8(c)(2)(A).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter H 106.201(1)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to maintain the stockpile sprinkler system operable at all times and operated necessary to maximize the control of dust emissions as required by 30 TAC § 106.201(1).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter H 106.201(6)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to control emissions at the batch drop point as required by 30 TAC § 106.201(6).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter H 106.201(8)

Description: Failure to clean up immediately and contain or dampen spilled cement and/or fly ash used in the batch process as required by 30 TAC § 106.201(8).

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  
INGRAM CONCRETE, LLC  
RN100805613

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-1957-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 Ingram Concrete, LLC ("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 ready-mixed concrete plant at 1884 Mineral Wells Highway in Weatherford, Parker 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 December 7, 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 Four Thousand Fifty Dollars (\$4,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Two Hundred Forty Dollars (\$3,240) of the administrative penalty and Eight Hundred Ten Dollars (\$810) 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 recognizes that the Respondent has implemented the following corrective measures at the Plant:
    - a. On June 5, 2008, vented the cement weigh hopper to its own fabric filter;
    - b. During July 2008, applied river gravel and installed area type sprinklers to control dust in the unpaved stockpile area in the northwest corner of the Plant and added a full-time sweeper for cleaning paved areas;
    - c. On January 9, 2009, paved the stockpile area; and
    - d. On January 13, 2009, built bunkers around the stockpile area.
  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:

1. Failed to control particulate emissions adequately enough as to not cause a nuisance situation that adversely affects human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property on June 5, 2008, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during an investigation conducted on May 27 through June 5, 2008.
2. Failed to comply with Permit by Rule Registration No. 44504 [effective August 21, 2000], in violation of 30 TEX. ADMIN. CODE § 106.201(4) [repealed June 30, 2004] and TEX. HEALTH &

SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 27 through June 5, 2008. Specifically, the Respondent failed to vent the cement weigh hopper to its own fabric filter or the central dust collection system.

### 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: Ingram Concrete, LLC, Docket No. 2008-1957-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 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.
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. Miller*  
For the Executive Director

4/2/2009  
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]*  
Signature

2-25-09  
Date

IAN ROBERTS  
Name (Printed or typed)  
Authorized Representative of  
Ingram Concrete, LLC

VP/GM  
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.