

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0470-WQ-E TCEQ ID: RN102809332 CASE NO.: 35578**  
**RESPONDENT NAME: INDUSTRIAL ANCHORS, INC.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 7225 Frint Drive, Beaumont, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Industrial steel manufacturing business</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired April 6, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Ms. Heather Brister, Water Enforcement Section, MC R-9, (254) 761-3034  <b>TCEQ Regional Contact:</b> Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838  <b>Respondent:</b> Mr. Charles E. Moore, President, Industrial Anchors, Inc., P.O. Box 20978, Beaumont, Texas, 77720  <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></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 8, 2008</p> <p><b>Date of NOE Relating to this Case:</b> January 10, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed September 18, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The EDFARP was filed November 3, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The Respondent failed to answer the EDPRP and EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>WQ:</b> Failed to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c)].</p>	<p><b>Total Assessed:</b> \$2,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$2,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input 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>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days:             <ol style="list-style-type: none"> <li>a. Develop and implement a Storm Water Pollution Prevention Plan; and</li> <li>b. Submit a Notice of Intent letter and associated fees to comply with the TPDES Multi-Sector General Permit requirements, or if all industrial activities and materials are isolated from rain, snow, snowmelt, and runoff by storm-resistant shelters, submit a Conditional No Exposure Certification application for exclusion from the TPDES Multi-Sector General Permit and associated fees.</li> </ol> </li> <li>2. Within 45 days, submit written certification demonstrating compliance with Ordering Provision Nos. 1.a. and 1.b.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

<b>DATES</b>	Assigned	3-Mar-2008	Screening	8-Mar-2008	EPA Due	
	PCW	27-May-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Industrial Anchors, Inc.
Reg. Ent. Ref. No.	RN102809332
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	35578	No. of Violations	1	
Docket No.	2008-0470-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen	
Multi-Media		EC's Team	Enforcement Team 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1*

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

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

**Compliance History** *Subtotals 2, 3, & 7*

Notes

**Culpability** *Subtotal 4*

Notes

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

Before NOV      NOV to EDRP/Settlement Offer

Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

**0% Enhancement\*** *Subtotal 6*

Total EB Amounts       \*Capped at the Total EB \$ Amount

Approx. Cost of Compliance

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

*Final Penalty Amount*

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

**DEFERRAL** *Adjustment*

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

Notes

**PAYABLE PENALTY**

Screening Date 8-Mar-2008

Docket No. 2008-0470-WQ-E

PCW

Respondent Industrial Anchors, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35578

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102809332

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

**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)	0	0%
	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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

The penalty is reduced due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

<b>Screening Date</b> 8-Mar-2008	<b>Docket No.</b> 2008-0470-WQ-E	<b>PCW</b>
<b>Respondent</b> Industrial Anchors, Inc.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35578	<i>PCW Revision February 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102809332		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)"/>	
<b>Violation Description</b>	<input general="" multi-sector="" permit."="" tpdes")="" type="text" value="Failed to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System ("/>	
<b>Base Penalty</b>	<input type="text" value="\$10,000"/>	

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	<b>Actual</b>	<input type="text"/>	<input type="text"/>		<input type="text"/>
	<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>				
		<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>		<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>	
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>				
				<b>Adjustment</b> <input type="text" value="\$9,000"/>	

**Violation Events**

<b>Number of Violation Events</b> <input type="text" value="2"/>	<input type="text" value="60"/> <b>Number of violation days</b>	
<i>mark only one with an x</i>	<b>daily</b>	<input type="text"/>
	<b>monthly</b>	<input checked="" type="text" value="x"/>
	<b>quarterly</b>	<input type="text"/>
	<b>semiannual</b>	<input type="text"/>
	<b>annual</b>	<input type="text"/>
	<b>single event</b>	<input type="text"/>
		<b>Violation Base Penalty</b> <input type="text" value="\$2,000"/>
<input type="text" value="Two monthly events are recommended from the investigation date (January 8, 2008) to the screening date (March 8, 2008)."/>		

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$33"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,000"/>	

## Economic Benefit Worksheet

**Respondent** Industrial Anchors, Inc.

**Case ID No.** 35578

**Reg. Ent. Reference No.** RN102809332

**Media** Water Quality

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$500	8-Jan-2008	31-Oct-2008	0.8	\$1	\$27	\$28
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$100	8-Jan-2008	31-Oct-2008	0.8	\$4	n/a	\$4
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a stormwater permit and to develop and implement a stormwater pollution prevention plan. 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$600

TOTAL

\$33

# Compliance History

Customer/Respondent/Owner-Operator: CN601442122 Industrial Anchors, Inc. Classification: HIGH Rating: 0.00  
Regulated Entity: RN102809332 INDUSTRIAL ANCHORS Classification: HIGH Site Rating: 0.00  
ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER R10ST0044  
Location: 7225 FRINT DR, BEAUMONT, JEFFERSON CO, TX Rating Date: September 01 07  
Repeat Violator: NO  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: March 8, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 8, 2003 to March 8, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Lynley Doyen Phone: 512-239-1364

## 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 03/20/2003 (28701)  
2 02/29/2008 (613950)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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  
INDUSTRIAL ANCHORS, INC.,  
RN102809332

§  
§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2008-0470-WQ-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Industrial Anchors, Inc. ("Industrial Anchors").

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Industrial Anchors owns and operates an industrial steel manufacturing business located at 7225 Frint Drive, Beaumont, Jefferson County, Texas (the "Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an inspection on January 8, 2008, a TCEQ Beaumont Regional Office investigator documented that Industrial Anchors failed to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit.
4. Industrial Anchors received notice of the violation on or about January 15, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of

Industrial Anchors, Inc.” (the “EDPRP”) in the TCEQ Chief Clerk’s office on September 18, 2008.

6. By letter dated September 18, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Industrial Anchors with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Industrial Anchors received notice of the EDPRP.
7. The Executive Director filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Industrial Anchors, Inc.” (the “EDFARP”) in the TCEQ Chief Clerk’s office on November 3, 2008.
8. By letter dated November 3, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Industrial Anchors with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Industrial Anchors received notice of the EDFARP.
9. More than 20 days have elapsed since Industrial Anchors received notice of the EDPRP and EDFARP, provided by the Executive Director. Industrial Anchors failed to file an answer to the EDPRP and EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Industrial Anchors is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Industrial Anchors failed to obtain authorization to discharge storm water associated with industrial activities under a Texas Pollutant Discharge Elimination System (“TPDES”) Multi-Sector General Permit, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Industrial Anchors with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

4. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Industrial Anchors with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 9, Industrial Anchors has failed to file a timely answer to the EDPRP and EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Industrial Anchors and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Industrial Anchors for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand dollars (\$2,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Industrial Anchors is assessed an administrative penalty in the amount of two thousand dollars (\$2,000.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Industrial Anchors's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Industrial Anchors, Inc.; Docket No. 2008-0470-WQ-E" to:

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

2. Industrial Anchors shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Industrial Anchors shall develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter and associated fees to comply with the TPDES Multi-Sector General Permit requirements, or if all industrial activities and materials are isolated from rain, snow, snowmelt, and runoff by storm-resistant shelters, submit a Conditional No Exposure Certification application for exclusion from the TPDES Multi-Sector General Permit and associated fees, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c) to:

Wastewater Permitting Section  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Industrial Anchors shall submit written certification of compliance with Ordering Provision No. 2.a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

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

and

Mr. Ronald Hebert, Water Section Manager  
Texas Commission on Environmental Quality  
Beaumont Regional Office  
3870 Eastex Freeway  
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Industrial Anchors. Industrial Anchors is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Industrial Anchors fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Industrial Anchors's failure to comply is not a violation of this Order. Industrial Anchors shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Industrial Anchors shall notify the Executive Director within seven days after Industrial Anchors becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Industrial Anchors shall be made in writing to the Executive Director. Extensions are not effective until Industrial Anchors receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Industrial Anchors if the Executive Director determines that Industrial Anchors has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
  
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF XAVIER GUERRA**

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

“My name is Xavier Guerra. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Industrial Anchors, Inc.” (the “EDPRP”) with the Office of the Chief Clerk on September 18, 2008.

I sent the EDPRP to Industrial Anchors at its last known address on September 18, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Industrial Anchors, Inc.” (the “EDFARP”) with the Office of the Chief Clerk on November 3, 2008.

I sent the EDFAPRP to Industrial Anchors at its last known address on November 3, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

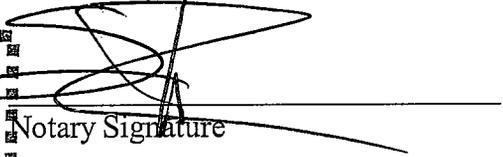
More than 20 days have elapsed since Industrial Anchors received notice of the EDPRP and EDFARP. Industrial Anchors failed to file an answer to the EDPRP and EDFARP, failed to request a hearing, and failed to schedule a settlement conference”.

  
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Xavier Guerra  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 3rd day of February, A.D., 2009.

Notary Stamp  **STACY TANNER**  
Notary Public, State of Texas  
My Commission Expires **NOVEMBER 16, 2009**  
Notary without Bond

  
Notary Signature