

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0199-IWD-E **TCEQ ID:** RN104750963 **CASE NO.:** 37093

RESPONDENT NAME: East Texas Precast Co., Ltd.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: East Texas Precast Company, 44855 Old Houston Highway, Hempstead, Waller County</p> <p>TYPE OF OPERATION: Concrete products facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Bob Diakiw, President/CEO, East Texas Precast Co., Ltd., P.O. Box 579, Waller, Texas 77484 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 3, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 6, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations at Outfall 001A for total suspended solids ("TSS") and pH [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110719, Part III, Section A].</p> <p>2) Failure to pay overdue General Permits Wastewater fees and penalties associated with Account No. 20501273 for fiscal year 2009 [TEX. WATER CODE §§ 5.702 and 26.0135(h)].</p>	<p>Total Assessed: \$1,940</p> <p>Total Deferred: \$388 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,552</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. In March 2008, installed silt fences and hay bales surrounding the property in order to reduce TSS and pH at Outfall 001A; and</p> <p>b. During June 2008, returned to compliance with permitted effluent limits.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date after this Agreed Order submit payment for outstanding fees, including any associated penalties and interest; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): TXG110719



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	20-Jan-2009	Screening	29-Jan-2009	EPA Due	
	PCW	2-Feb-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	East Texas Precast Co., Ltd.		
Reg. Ent. Ref. No.	RN104750963		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37093	No. of Violations	2
Docket No.	2009-0199-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Carlie Konkol
		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	\$2,000
---	------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	22.0% Enhancement	Subtotals 2, 3, & 7: \$440

Notes: A 22% enhancement is recommended for having four NOV's for self-reported effluent data and one NOV for non-similar 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	\$500
--	------------	-------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$76	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$4,500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,940
-----------------------------	----------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes:

Final Penalty Amount	\$1,940
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,940
-----------------------------------	------------------------	---------

DEFERRAL	20.0% Reduction	Adjustment	-\$388
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		\$1,552
------------------------	--	---------

Screening Date 29-Jan-2009	Docket No. 2009-0199-IWD-E	PCW
Respondent East Texas Precast Co., Ltd.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37093	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN104750963		
Media [Statute] Water Quality		
Enf. Coordinator Carlie Konkol		

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 NOV's meeting criteria)</i>	4	20%
	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 judgements 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%

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) 22%

>> 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

A 22% enhancement is recommended for having four NOV's for self-reported effluent data and one NOV for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 29-Jan-2009		Docket No. 2009-0199-IWD-E		PCW	
Respondent East Texas Precast Co., Ltd.		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37093		<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN104750963					
Media [Statute] Water Quality					
Enf. Coordinator Carlie Konkol					
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. TXG110719, Part III, Section A				
Violation Description	Failed to comply with the permitted effluent limitations at Outfall 001A as shown in the attached table.				
Base Penalty				\$10,000	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
				Percent 10%	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent 0%	
Matrix Notes	As a result of this violation, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.				
Adjustment				\$9,000	
				\$1,000	
Violation Events					
Number of Violation Events		2	Number of violation days 59		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>			
	weekly	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input type="checkbox"/>			
				Violation Base Penalty \$2,000	
Two quarterly events are recommended.					
Good Faith Efforts to Comply		25.0% Reduction		\$500	
		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)			
Notes	The Respondent achieved compliance during the month of June 2008.				
Violation Subtotal				\$1,500	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount \$76		Violation Final Penalty Total \$1,940			
				This violation Final Assessed Penalty (adjusted for limits) \$1,940	

Economic Benefit Worksheet

Respondent East Texas Precast Co., Ltd.

Case ID No. 37093

Reg. Ent. Reference No. RN104750963

Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

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)	\$4,500	28-Feb-2008	30-Jun-2008	0.34	\$76	n/a	\$76

Notes for DELAYED costs

The estimated cost for additional oversight which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the date of compliance with permitted effluent limitations.

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

\$4,500

TOTAL

\$76

Screening Date 29-Jan-2009	Docket No. 2009-0199-IWD-E	PCW				
Respondent East Texas Precast Co., Ltd.	<i>Policy Revision 2 (September 2002)</i>					
Case ID No. 37093	<i>PCW Revision October 30, 2008</i>					
Reg. Ent. Reference No. RN104750963						
Media [Statute] Water Quality						
Enf. Coordinator Carlie Konkol						
Violation Number <input type="text" value="2"/>						
Rule Cite(s)	Tex. Water Code §§ 5.702 and 26.0135(h)					
Violation Description	Failed to pay overdue General Permits Wastewater fees and penalties associated with Account No. 20501273 for fiscal year 2009.					
Base Penalty		<input type="text" value="\$10,000"/>				
>> Environmental, Property and Human Health Matrix						
OR	Harm					
	Release	Major	Moderate	Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>			
		Percent	<input type="text" value="0%"/>			
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		Percent	<input type="text" value="0%"/>			
Matrix Notes						
		Adjustment	<input type="text" value="\$10,000"/>			
		<input type="text" value="\$0"/>				
Violation Events						
Number of Violation Events		<input type="text"/>	Number of violation days		<input type="text"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>				
	weekly	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	<input type="text"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	<input type="text"/>				
		Violation Base Penalty				<input type="text" value="\$0"/>
No penalty is recommended because penalty and interest will be assessed at the next billing.						
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction		<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>				
Ordinary	<input type="text"/>	<input type="text"/>				
N/A	<input type="text"/>	(mark with x)				
Notes						
		Violation Subtotal				<input type="text" value="\$0"/>
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$0"/>	Violation Final Penalty Total		<input type="text" value="\$0"/>	
		This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$0"/>

Economic Benefit Worksheet

Respondent: East Texas Precast Co., Ltd.
Case ID No.: 37093
Reg. Ent. Reference No.: RN104750963
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount																
Delayed Costs																							
Equipment				0.00	\$0	\$0	\$0																
Buildings				0.00	\$0	\$0	\$0																
Other (as needed)				0.00	\$0	\$0	\$0																
Engineering/construction				0.00	\$0	\$0	\$0																
Land				0.00	\$0	n/a	\$0																
Record Keeping System				0.00	\$0	n/a	\$0																
Training/Sampling				0.00	\$0	n/a	\$0																
Remediation/Disposal				0.00	\$0	n/a	\$0																
Permit Costs				0.00	\$0	n/a	\$0																
Other (as needed)				0.00	\$0	n/a	\$0																
Notes for DELAYED costs: Not Applicable.																							
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: Not Applicable.																							
<table style="width: 100%; border: none;"> <tr> <td style="width: 30%; border: none;">Approx. Cost of Compliance</td> <td style="width: 10%; border: none;"></td> <td style="width: 10%; border: none;"></td> <td style="width: 10%; border: none;"></td> <td style="width: 5%; border: none;"></td> <td style="width: 10%; border: none;"></td> <td style="width: 10%; border: none; text-align: center;">TOTAL</td> <td style="width: 10%; border: none;"></td> </tr> <tr> <td style="border: none;"></td> <td style="border: none; text-align: center;">\$0</td> <td style="border: none;"></td> <td style="border: none; text-align: center;">\$0</td> </tr> </table>								Approx. Cost of Compliance						TOTAL			\$0						\$0
Approx. Cost of Compliance						TOTAL																	
	\$0						\$0																

Approx. Cost of Compliance

\$0

TOTAL

\$0

East Texas Precast Co., Ltd.
Docket No. 2009-0199-IWD-E
Case No. 37093; RN104750963

EFFLUENT PARAMETER Outfall 001A		
Monitoring Periods	Permit Effluent Limits	
	TSS Daily Maximum 65 mg/L	pH Concentration Maximum 9.0 SU
February 2008	416	11.3
May 2008	230	11.2

TSS – Total Suspended Solids
mg/L – Milligrams per Liter
SU – Standard Units

Compliance History Report

Customer/Respondent/Owner-Operator: CN602907446 East Texas Precast Co., Ltd. Classification: AVERAGE Rating: 0.55
Regulated Entity: RN104750963 EAST TEXAS PRECAST COMPANY Classification: AVERAGE Site Rating: 0.55
ID Number(s): WASTE WATER GENERAL PERMIT PERMIT TXG110719
Location: 44855 OLD HOUSTON HWY, HEMPSTEAD, TX, 77445
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: January 28, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 28, 2004 to January 28, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Carlie Konkol Phone: (361) 825-3422

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership 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
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/06/2004	(449059)
2	12/06/2004	(449060)
3	12/06/2004	(449061)
4	01/25/2005	(449062)
5	04/21/2005	(449054)
6	04/26/2005	(449051)
7	04/26/2005	(449052)
8	04/26/2005	(449053)
9	08/04/2005	(449055)
10	08/04/2005	(449056)
11	08/04/2005	(449057)
12	08/04/2005	(449058)
13	01/24/2006	(496186)
14	01/24/2006	(496187)
15	01/24/2006	(496188)
16	01/24/2006	(496190)
17	05/10/2006	(508201)
18	05/10/2006	(508202)
19	05/10/2006	(508203)
20	07/19/2006	(530524)
21	07/19/2006	(530525)
22	07/19/2006	(530526)
23	08/11/2006	(531076)
24	08/28/2006	(530527)
25	08/28/2006	(530528)
26	10/17/2006	(553246)
27	10/17/2006	(553247)

28	10/17/2006	(553248)
29	01/23/2007	(592019)
30	01/23/2007	(592020)
31	01/23/2007	(592021)
32	04/14/2007	(592015)
33	04/14/2007	(592016)
34	04/14/2007	(592017)
35	05/30/2007	(592018)
36	01/30/2008	(698550)
37	01/30/2008	(698552)
38	01/30/2008	(698553)
39	01/30/2008	(698554)
40	01/30/2008	(698555)
41	01/30/2008	(698556)
42	01/30/2008	(698557)
43	02/11/2008	(698545)
44	04/24/2008	(698547)
45	05/22/2008	(698546)
46	05/22/2008	(698548)
47	06/20/2008	(698549)
48	07/17/2008	(698551)
49	08/19/2008	(720029)
50	09/19/2008	(720030)
51	10/20/2008	(720031)
52	01/14/2009	(707139)

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

Date: 12/31/2005 (496190) CN602907446
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/11/2006 (531076) CN602907446
 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
 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
 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)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 02/29/2008 (698546) CN602907446

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (698549) CN602907446

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: 11/30/2008 CN602907446

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

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EAST TEXAS PRECAST CO., LTD.
RN104750963

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0199-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 East Texas Precast Co., Ltd. ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 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 products facility at 44855 Old Houston Highway in Hempstead, Waller 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 February 11, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Nine Hundred Forty Dollars (\$1,940) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Fifty-Two Dollars (\$1,552) of the administrative penalty and Three Hundred Eighty-Eight Dollars (\$388) 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 Facility:
 - a. In March 2008, installed silt fences and hay bales surrounding the property in order to reduce total suspended solids ("TSS") and pH at Outfall 001A; and
 - b. During June 2008, returned to compliance with permitted effluent limits.
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 Facility, the Respondent is alleged to have:

1. Failed to comply with the permitted effluent limitations at Outfall 001A, 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. TXG110719, Part III, Section A, as documented during a record review conducted on November 3, 2008 and indicated in the table below:

EFFLUENT PARAMETER Outfall 001A		
Monitoring Periods	Permit Effluent Limits	
	TSS Daily Maximum 65 mg/L	pH Concentration Maximum 9.0 SU
February 2008	416	11.3
May 2008	230	11.2

TSS – Total Suspended Solids
mg/L – Milligrams per Liter
SU – Standard Units

2. Failed to pay overdue General Permits Wastewater fees and penalties associated with Account No. 20501273 for fiscal year 2009, in violation of TEX. WATER CODE §§ 5.702 and 26.0135(h), as documented during a record review conducted on November 3, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: East Texas Precast Co., Ltd., Docket No. 2009-0199-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 after this Agreed Order submit payment for outstanding fees, including any associated penalties and interest with the notation, "East

Texas Precast Co., Ltd., TCEQ Financial Account No. 20501273", to the address listed in Paragraph 1 of this section; and

- b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision 2.a.

The certification shall be notarized by a State of Texas Notary Public and contain the following language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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.

East Texas Precast Co., Ltd.
DOCKET NO. 2009-0199-IWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

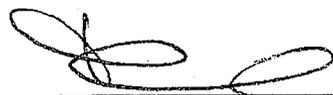
6/18/2009
Date

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

05/18/2009
Date

Bob Diakow

Name (Printed or typed)
Authorized Representative of
East Texas Precast Co., Ltd.

President / CEO

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.