

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0698-MLM-E **TCEQ ID:** RN105190193 **CASE NO.:** 37607
RESPONDENT NAME: Ingram ReadyMix, Inc.

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 checked="" 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 checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: Ingram Ready Mix Plant 22, 8963 State Highway 211, San Antonio, Medina County</p> <p>TYPE OF OPERATION: Concrete Readymix production facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on February 27, 2009, alleging that the facility was constructing a parking lot without erosion and sediment controls. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jerral W. Hayes, Operations Manager, Ingram ReadyMix, Inc., 3580 Farm-to-Market Road 482, New Braunfels, Texas 78132 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: February 27, 2009</p> <p>Date of Investigation Relating to this Case: February 27, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 5, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failure to submit an Edwards Aquifer Protection Plan for Commission approval prior to conducting regulated activities on the Edwards Aquifer Transition Zone. Specifically, a 10,000 gallon aboveground storage tank ("AST") was installed without prior approval [30 TEX. ADMIN. CODE § 213.4(a)(1)].</p> <p>2) Failure to obtain authorization to discharge process water and storm water associated with the concrete production facility [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p>	<p>Total Assessed: \$3,750</p> <p>Total Deferred: \$750 <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: \$3,000</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 submitted an administratively complete Notice of Intent and obtained coverage under Permit No. TXG110928 on March 14, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit an Edwards Aquifer Protection Plan for the 10,000 gallon AST to the TCEQ San Antonio Regional Office for approval;</p> <p>b. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadline specified in writing; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): TXR05U444



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	11-May-2009	Screening	12-May-2009	EPA Due	
	PCW	20-May-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Ingram ReadyMix, Inc.		
Reg. Ent. Ref. No.	RN105190193		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37607	No. of Violations	2
Docket No.	2009-0698-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
		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	\$4,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
Notes	No change due to Average Performer classification.		
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	\$250
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$35	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$2,150		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$3,750
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$3,750
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$3,750
DEFERRAL	20.0% Reduction	Adjustment	-\$750
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$3,000

Screening Date 12-May-2009

Docket No. 2009-0698-MLM-E

PCW

Respondent Ingram ReadyMix, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37607

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105190193

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

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)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No change due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

<p>Screening Date 12-May-2009</p> <p>Respondent Ingram ReadyMix, Inc.</p> <p>Case ID No. 37607</p> <p>Reg. Ent. Reference No. RN105190193</p> <p>Media [Statute] Edwards Aquifer</p> <p>Enf. Coordinator Jorge Ibarra, P.E.</p> <p>Violation Number <input type="text" value="1"/></p> <p>Rule Cite(s) <input style="width:100%;" type="text" value="30 Tex. Admin. Code § 213.4(a)(1)"/></p> <p>Violation Description <input ("ast")="" 10,000="" a="" aboveground="" activities="" approval="" approval."="" aquifer="" commission="" conducting="" eapp")="" edwards="" for="" gallon="" installed="" on="" prior="" regulated="" specifically,="" storage="" style="width:100%; height: 50px;" tank="" the="" to="" transition="" type="text" value="Failed to submit an Edwards Aquifer Protection Plan (" was="" without="" zone.=""/></p>	<p>Docket No. 2009-0698-MLM-E</p> <p style="text-align: right;">PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small></p>																			
Base Penalty <input style="width:100%;" type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
<p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Release</td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;">Percent <input style="width:50px;" type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>	Release	Harm					Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Release	Harm																			
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Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
>> Programmatic Matrix																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: right;">Percent <input style="width:50px;" type="text" value="10%"/></td> </tr> </table> <p>Matrix Notes <input style="width:100%; height: 30px;" type="text" value="100% of the rule requirement was not met."/></p>	Falsification	Major	Moderate	Minor		<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="10%"/>										
Falsification	Major	Moderate	Minor																	
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Adjustment <input style="width:100%;" type="text" value="\$9,000"/>																				
<input style="width:100%;" type="text" value="\$1,000"/>																				
Violation Events																				
<p>Number of Violation Events <input style="width:50px;" type="text" value="3"/> <input style="width:50px;" type="text" value="74"/> Number of violation days</p> <p>mark only one with an x</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<p>Violation Base Penalty <input style="width:100%;" type="text" value="\$3,000"/></p>					
daily	<input type="text"/>																			
weekly	<input type="text"/>																			
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Good Faith Efforts to Comply																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">0.0%</td> <td style="text-align: center;">Reduction</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> <td></td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="3" style="text-align: right;">Violation Subtotal <input style="width:100%;" type="text" value="\$3,000"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p>Notes <input style="width:100%; height: 30px;" type="text" value="The Respondent does not meet the good faith criteria for this violation."/></p>		0.0%	Reduction			Before NOV	NOV to EDPRP/Settlement Offer		Extraordinary	<input type="text"/>	<input type="text"/>	Violation Subtotal <input style="width:100%;" type="text" value="\$3,000"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)		
	0.0%	Reduction																		
	Before NOV	NOV to EDPRP/Settlement Offer																		
Extraordinary	<input type="text"/>	<input type="text"/>	Violation Subtotal <input style="width:100%;" type="text" value="\$3,000"/>																	
Ordinary	<input type="text"/>	<input type="text"/>																		
N/A	x	(mark with x)																		
Economic Benefit (EB) for this violation																				
<p>Estimated EB Amount <input style="width:100%;" type="text" value="\$31"/></p>	<p>Statutory Limit Test</p> <p>Violation Final Penalty Total <input style="width:100%;" type="text" value="\$3,000"/></p> <p>This violation Final Assessed Penalty (adjusted for limits) <input style="width:100%;" type="text" value="\$3,000"/></p>																			

Economic Benefit Worksheet

Respondent Ingram ReadyMix, Inc.
Case ID No. 37607
Reg. Ent. Reference No. RN105190193
Media Edwards Aquifer
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				0.00	\$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	\$650	27-Feb-2009	15-Feb-2010	0.97	\$31	n/a	\$31
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare, submit and obtain approval of an EAPP for the AST. Date Required is the investigation date, Final Date is the expected 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

\$650

TOTAL

\$31

Screening Date 12-May-2009	Docket No. 2009-0698-MLM-E	PCW														
Respondent Ingram ReadyMix, Inc.		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 37607		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN105190193																
Media [Statute] Edwards Aquifer																
Enf. Coordinator Jorge Ibarra, P.E.																
Violation Number	2															
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations ("CFR") § 122.26(c)															
Violation Description	Failed to obtain authorization to discharge process water and storm water associated with the concrete production facility.															
	Base Penalty	\$10,000														
>> Environmental, Property and Human Health Matrix																
	Harm															
	Major Moderate Minor															
OR	Release															
	Actual															
	Potential															
		Percent 0%														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
		x														
		Percent 10%														
Matrix Notes	100% of the rule requirement was not met.															
	Adjustment	\$9,000														
		\$1,000														
Violation Events																
	Number of Violation Events 1	Number of violation days 15														
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td style="border: 1px solid black;"></td></tr> <tr><td>weekly</td><td style="border: 1px solid black;"></td></tr> <tr><td>monthly</td><td style="border: 1px solid black; text-align: center;">x</td></tr> <tr><td>quarterly</td><td style="border: 1px solid black;"></td></tr> <tr><td>semiannual</td><td style="border: 1px solid black;"></td></tr> <tr><td>annual</td><td style="border: 1px solid black;"></td></tr> <tr><td>single event</td><td style="border: 1px solid black;"></td></tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event		Violation Base Penalty \$1,000
daily																
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monthly	x															
quarterly																
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annual																
single event																
	One monthly event is recommended from the February 27, 2009 investigation date to the March 14, 2009 compliance date.															
Good Faith Efforts to Comply	25.0% Reduction	\$250														
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>															
Extraordinary																
Ordinary	x															
N/A	<small>(mark with x)</small>															
Notes	The Respondent achieved compliance on March 14, 2009 for this violation.															
	Violation Subtotal	\$750														
Economic Benefit (EB) for this violation		Statutory Limit Test														
Estimated EB Amount \$3		Violation Final Penalty Total \$750														
		This violation Final Assessed Penalty (adjusted for limits) \$750														

Economic Benefit Worksheet

Respondent Ingram ReadyMix, Inc.
Case ID No. 37607
Reg. Ent. Reference No. RN105190193
Media Edwards Aquifer
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
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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	\$1,500	27-Feb-2009	14-Mar-2009	0.04	\$3	n/a	\$3
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to develop and implement a Storm Water Pollution Prevention Plan and obtain permit coverage to discharge storm water. Date Required is the investigation date, Final Date is 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	\$1,500	TOTAL	\$3
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Compliance History Report

Customer/Respondent/Owner-Operator: CN600240188 Ingram ReadyMix, Inc. Classification: AVERAGE Rating: 1.78
Regulated Entity: RN105190193 INGRAM READYMIX PLANT 22 Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): STORMWATER PERMIT TXR05U444
Location: 8963 STATE HIGHWAY 211, SAN ANTONIO, TX, 78253
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: May 12, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 12, 2004 to May 12, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator 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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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 READYMIX, INC.
RN105190193

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0698-MLM-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 ReadyMix, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a concrete Readymix production facility located at 8963 State Highway 211 in San Antonio, Medina County, Texas (the "Facility").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of 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 May 10, 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 Three Thousand Seven Hundred Fifty Dollars (\$3,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Dollars (\$3,000) of the administrative penalty and Seven Hundred Fifty Dollars (\$750) 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 submitted an administratively complete Notice of Intent ("NOI") and obtained coverage under Permit No. TXG110928 on March 14, 2009.
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 submit an Edwards Aquifer Protection Plan for Commission approval prior to conducting regulated activities on the Edwards Aquifer Transition Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1), as documented during an investigation conducted on February 27, 2009. Specifically, a 10,000 gallon aboveground storage tank ("AST") was installed without prior approval.
2. Failed to obtain authorization to discharge process water and storm water associated with the concrete production facility, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on February 27, 2009.

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 ReadyMix, Inc., Docket No. 2009-0698-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit an Edwards Aquifer Protection Plan for the 10,000 gallon AST to the TCEQ San Antonio Regional Office for approval, in accordance with 30 TEX. ADMIN. CODE § 213.4;
 - b. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadline specified in writing; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallin

For the Executive Director

8/21/2009

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.

Jerral W. Hayes

Signature

July 2, 2009

Date

Jerral W. Hayes

Name (Printed or typed)
Authorized Representative of
Ingram ReadyMix, Inc.

OPERATIONS MANAGER

Title

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

