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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0761-IWD-E **TCEQ ID:** RN100242114 **CASE NO.:** 39666  
**RESPONDENT NAME:** GOLDEN SPREAD REDI-MIX, INC.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input 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

**SITE WHERE VIOLATION(S) OCCURRED:** GOLDEN SPREAD REDI-MIX, 400 Southwest 1st Avenue, Amarillo, Potter County

**TYPE OF OPERATION:** Ready-mixed concrete

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on August 30, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Mr. Jeremy Escobar, Enforcement Division, Water Enforcement Section, MC R-14, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

**Respondent:** Ms. Kathy Hagerman, CFO, GOLDEN SPREAD REDI-MIX, INC., P.O.Box 31660, Amarillo, Texas 79120

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 4, 2010</p> <p><b>Date of NOV Relating to this Case:</b> April 22, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permitted effluent limits. Specifically, the Respondent reported a total suspended solids ("TSS") daily maximum of 332 milligrams per liter ("mg/L") for the monitoring period ending June 30, 2009, and a TSS daily maximum of 100 mg/L for the monitoring period ending July 31, 2009. The TSS daily maximum permitted limit is 65 mg/L [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110238 Part III Permit Requirements, Section A, and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to submit notification of effluent violations that deviated from permitted effluent limits by more than 40% within five working days of becoming aware of noncompliance. Specifically, the Respondent failed to submit a notification of a 40% TSS exceedances during the months of June 2009 and July 2009 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXG110238 Part III Permit Requirements, Section I, General Requirements 7(b)].</p>	<p><b>Total Assessed:</b> \$4,550</p> <p><b>Total Deferred:</b> \$910  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,640</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent:</p> <p>a) Submitted the noncompliance reports for the monitoring periods ending June 30, 2009 and July 31, 2009 on March 25, 2010; and</p> <p>b) Repaired and replaced the silt fences, installed new hay bales, and replaced the rock berms used as filters for the storm water leaving the site, and returned to compliance with permitted effluent limits by August 31, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that permit reporting requirements are properly accomplished, including the timely submittal of written reports for effluent violations which deviate by more than 40% from the permitted limit;</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.; and</p> <p>c) The certification shall include supporting documentation to demonstrate compliance.</p>

Additional ID No(s): TXG110238



# Penalty Calculation Worksheet (PCW)

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	26-Apr-2010	<b>Screening</b>	11-May-2010	<b>EPA Due</b>	
	<b>PCW</b>	12-May-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	GOLDEN SPREAD REDI-MIX, INC.
<b>Reg. Ent. Ref. No.</b>	RN100242114
<b>Facility/Site Region</b>	1-Amarillo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39666	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-0761-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jeremy Escobar
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$3,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	60.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$1,800</b>
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**Notes** Enhancement recommended for having one Agreed Order with denial of liability, nine NOV's for self-reported effluent violations, and one NOV for similar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$250</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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<b>Total EB Amounts</b>	\$66	<i>*Capped at the Total EB \$ Amount</i>
<b>Approx. Cost of Compliance</b>	\$2,600	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$4,550</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	<b>\$4,550</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$4,550</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$910</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$3,640</b>
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Screening Date 11-May-2010

Docket No. 2010-0761-IWD-E

PCW

Respondent: GOLDEN SPREAD REDI-MIX, INC.

Policy Revision 2 (September 2002)

Case ID No. 39666

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242114

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

### 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)	10	50%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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	Yes	-10%
	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) 60%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended for having one Agreed Order with denial of liability, nine NOVs for self-reported effluent violations, and one NOV for similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date 11-May-2010

Docket No. 2010-0761-IWD-E

PCW

Respondent GOLDEN SPREAD REDI-MIX, INC.

Policy Revision 2 (September 2002)

Case ID No. 39666

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242114

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110238 Part III Permit Requirements, Section A and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits, as documented during an investigation conducted on March 4, 2010. Specifically, the Respondent reported a total suspended solids ("TSS") daily maximum of 332 milligrams per liter ("mg/L") for the monitoring period ending June 30, 2009, and a TSS daily maximum of 100 mg/L for the monitoring period ending July 31, 2009. The TSS daily maximum permitted limit is 65 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 61

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent returned to compliance by August 31, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$1,350

This violation Final Assessed Penalty (adjusted for limits) \$1,350

## Economic Benefit Worksheet

**Respondent** GOLDEN SPREAD REDI-MIX, INC.

**Case ID No.** 39666

**Reg. Ent. Reference No.** RN100242114

**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				0.00	\$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)	\$1,500	30-Jun-2009	31-Aug-2009	0.17	\$13	n/a	\$13

Notes for DELAYED costs

Cost provided by Respondent, to repair and replace silt fences, install new hay bales, and replace new rock berms. Date required is the first date of non-compliance. The final date is the date of compliance.

**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

\$13

Screening Date 11-May-2010

Docket No. 2010-0761-IWD-E

PCW

Respondent GOLDEN SPREAD REDI-MIX, INC.

Policy Revision 2 (September 2002)

Case ID No. 39666

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242114

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXG110238 Part III Permit Requirements, Section I, General Requirements 7(b)

Violation Description Failed to submit notification of effluent violations that deviated from permitted effluent limits by more than 40% within five working days of becoming aware of noncompliance. Specifically, the Respondent failed to submit a notification of a 40% TSS exceedances during the months of June 2009 and July 2009, as documented during an investigation conducted on March 4, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			Percent
		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent
			x			

Matrix Notes 100% of the rule requirement was not met

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 61

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,000

Two single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$49

Violation Final Penalty Total \$3,200

This violation Final Assessed Penalty (adjusted for limits) \$3,200

# Economic Benefit Worksheet

**Respondent** GOLDEN SPREAD REDI-MIX, INC.

**Case ID No.** 39666

**Reg. Ent. Reference No.** RN100242114

**Media** Water Quality

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Item Description</b>	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	\$100	5-Jul-2009	25-Mar-2010	0.72	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	5-Jul-2010	1-Jun-2011	0.91	\$45	n/a	\$45

Notes for DELAYED costs

The estimated cost to submit noncompliance reports, and to update operational guidance. Date required is the date the initial noncompliance report was due. The final date is the date the reports were submitted to the regional office and the estimated compliance date for operational guidance training.

**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

\$1,100

TOTAL

\$49

## Compliance History Report

Customer/Respondent/Owner-Operator:	CN600134712	GOLDEN SPREAD REDI-MIX, INC.	Classification: AVERAGE	Rating: 2.89
Regulated Entity:	RN100242114	GOLDEN SPREAD REDI MIX	Classification: AVERAGE	Site Rating: 1.48
ID Number(s):	AIR NEW SOURCE PERMITS PETROLEUM STORAGE TANK REGISTRATION	ACCOUNT NUMBER REGISTRATION		PG0012B 40691
Location:	WASTE WATER GENERAL PERMIT 400 SW 1ST AVE, AMARILLO, TX, 79101	PERMIT		TXG110238
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	May 12, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 11, 2005 to May 11, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	jeremy escobar	Phone:	825-3422	

### 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? Golden Spread Redi-Mix, Inc.
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?
6. Rating Date: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

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

Effective Date: 04/14/2006 ADMINORDER 2005-1762-IWD-E  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
           30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: Effluent Limits PERMIT  
 Description: Failure to comply with the permitted effluent limits for pH and total suspended solids ("TSS").

- 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	06/27/2005	(429100)
2	06/27/2005	(429101)
3	06/27/2005	(429102)
4	06/27/2005	(429103)
5	09/30/2005	(400041)
6	11/07/2005	(495335)
7	11/07/2005	(495336)
8	11/07/2005	(495337)
9	12/29/2005	(495338)
10	12/29/2005	(495339)
11	12/29/2005	(495340)
12	03/07/2006	(495334)
13	03/07/2006	(495341)
14	06/26/2006	(507657)
15	06/26/2006	(507658)
16	06/26/2006	(507659)
17	06/26/2006	(507660)
18	09/14/2006	(529959)
19	09/14/2006	(529960)
20	09/14/2006	(529961)
21	12/19/2006	(552811)
22	12/19/2006	(552812)
23	12/19/2006	(591197)

24 04/20/2007 (591192)  
 25 04/20/2007 (591198)  
 26 06/06/2007 (591193)  
 27 06/06/2007 (591194)  
 28 07/18/2007 (591195)  
 29 08/03/2007 (591196)  
 30 09/05/2007 (606587)  
 31 10/01/2007 (606588)  
 32 11/05/2007 (635007)  
 33 12/06/2007 (600127)  
 34 12/10/2007 (635008)  
 35 01/02/2008 (635009)  
 36 01/04/2008 (635006)  
 37 03/13/2008 (678516)  
 38 03/14/2008 (638343)  
 39 04/03/2008 (678517)  
 40 04/23/2008 (678515)  
 41 06/24/2008 (697591)  
 42 06/24/2008 (697592)  
 43 07/03/2008 (697593)  
 44 07/31/2008 (719201)  
 45 08/14/2008 (719200)  
 46 10/10/2008 (719202)  
 47 10/10/2008 (719203)  
 48 01/02/2009 (734364)  
 49 01/02/2009 (734365)  
 50 01/02/2009 (734366)  
 51 03/17/2009 (757608)  
 52 03/29/2010 (794520)  
 53 04/22/2010

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

Date: 05/31/2005 (429103) CN600134712  
 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: 06/30/2005 (495335) CN600134712  
 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: 03/31/2006 (507658) CN600134712  
 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: 01/31/2007 (591192) CN600134712  
 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: 08/31/2007 (606587) CN600134712  
 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: 12/06/2007 (600127) CN600134712  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125  
 TXG11238 Pt. III Sect. G. 4 PERMIT  
 Description: The facility has failed to post signs stating that water used for dust suppression is from a non-potable water supply.

Date: 04/22/2010 (794520) CN600134712  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125  
 TXG110238, Pt. III Sect. I. 7.(b) PERMIT





TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
GOLDEN SPREAD REDI-MIX, INC.  
RN100242114

§  
§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2010-0761-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 GOLDEN SPREAD REDI-MIX, 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 ready-mixed concrete facility at 400 Southwest 1st Avenue in Amarillo, Potter 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 April 27, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Five Hundred Fifty Dollars (\$4,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Six Hundred Forty Dollars (\$3,640) of the administrative penalty and Nine Hundred Ten Dollars (\$910) 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:
    - a. Submitted the noncompliance reports for the monitoring periods ending June 30, 2009 and July 31, 2009 on March 25, 2010; and
    - b. Repaired and replaced the silt fences, installed new hay bales, and replaced the rock berms used as filters for the storm water leaving the site, and returned to compliance with permitted effluent limits by August 31, 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 comply with permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110238 Part III Permit Requirements, Section A, and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on March 4, 2010. Specifically, the Respondent reported a total suspended solids ("TSS") daily maximum of 332 milligrams per liter ("mg/L") for the monitoring period ending June 30, 2009, and a TSS daily maximum of 100 mg/L for the monitoring period ending July 31, 2009. The TSS daily maximum permitted limit is 65 mg/L.
2. Failed to submit notification of effluent violations that deviated from permitted effluent limits by more than 40% within five working days of becoming aware of noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXG110238 Part III Permit Requirements, Section I, General Requirements 7(b), as documented during an investigation conducted on March 4, 2010. Specifically, the Respondent failed to submit a notification of a 40% TSS exceedances during the months of June 2009 and July 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: GOLDEN SPREAD REDI-MIX, INC., Docket No. 2010-0761-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 of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that permit reporting requirements are properly accomplished, including the timely submittal of written reports for effluent violations which deviate by more than 40% from the permitted limit;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.c. below; and
  - c. The certification shall include supporting documentation to demonstrate compliance and 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 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  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

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 Szoln*  
For the Executive Director

8/13/2010  
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.

*Kathy Hagerman*  
Signature

6/28/10  
Date

Kathy Hagerman  
Name (Printed or typed)  
Authorized Representative of  
GOLDEN SPREAD REDI-MIX, INC.

CFO  
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.

