Executive Summary – Enforcement Matter – Case No. 41630
Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC
RN104336276
Docket No. 2011-0728-IWD-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
IWD
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Rapido Redi-Mix, 4247 Fuqua Street, Houston, Harris County
Type of Operation:
Ready-mixed concrete company
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: August 12, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $1,400
Amount Deferred for Expedited Settlement: $280
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $1,120
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN603433715 – Average
CN602664617 - High
Site/RN104336276 - Average by Default
RN104336276 - High
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41630
Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC
RN104336276
Docket No. 2011-0728-IWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 15, 2011
Date(s) of NOE(s): April 20, 2011

Violation Information

Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring reports ("DMRs") were not timely submitted for the monitoring periods ending January 31, 2010, February 28, 2010, March 31, 2010, April 30, 2010, and May 31, 2010 for Outfalls 001 and 002 and the annual metals and whole effluent toxicity ("WET") reports were not timely submitted for the monitoring period ending August 31, 2010 for Outfalls 001 and 002 [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System General Permit No. TXG110881, Part IV, No. 7(f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the DMRs for the monitoring periods ending January 31, 2010 through May 31, 2010 for Outfalls 001 and 002 and the annual metals and WET reports for the monitoring period ending August 31, 2010 for Outfalls 001 and 002 were received by the TCEQ on May 9, 2011.

Technical Requirements:

The Order will require the Respondents to:

a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual metals and WET reports; and

b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

Executive Summary – Enforcement Matter – Case No. 41630
Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC
RN104336276
Docket No. 2011-0728-IWD-E

TCEQ Enforcement Coordinator: Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Eusebio Torres, President, RAPIDO REDI-MIX INC, 4247 Fuqua Street, Houston, Texas 77048
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	25-Apr-2011					
PCW	9-May-2011	**Screening**	13-May-2011	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC		
Reg. Ent. Ref. No.	RN104336276		
Facility/Site Region	12-Houston	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	41630	**No. of Violations**	2
Docket No.	2011-0728-IWD-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Marty Hott
		EC's Team	Enforcement Team 1

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: **$1,400**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **0.0%** Enhancement — *Subtotals 2, 3, & 7*: **$0**

Notes: No adjustment for compliance history.

Culpability No — **0.0%** Enhancement — *Subtotal 4*: **$0**

Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5*: **$0**

Economic Benefit — **0.0%** Enhancement* — *Subtotal 6*: **$0**

Total EB Amounts $14
Approx. Cost of Compliance $700

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$1,400**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: **$1,400**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$1,400**

DEFERRAL **20.0%** Reduction — *Adjustment*: **-$280**

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: **$1,120**

Screening Date 13-May-2011 **Docket No.** 2011-0728-IWD-E **PCW**

Respondent Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Case ID No. 41630

Reg. Ent. Reference No. RN104336276

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("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 adjustment for compliance history.

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

Screening Date 13-May-2011 **Docket No.** 2011-0728-IWD-E **PCW**

Respondent Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Case ID No. 41630

Reg. Ent. Reference No. RN104336276

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110881, Part IV, No. 7(f)

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on March 15, 2011. Specifically, the discharge monitoring reports ("DMRs") were not timely submitted for the monitoring periods ending January 31, 2010, February 28, 2010, March 31, 2010, April 30, 2010, and May 31, 2010 for Outfall Nos. 001 and 002.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: More than 70% of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 10

443 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

Ten single events are recommended (one event per DMR for each outfall).

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $14

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC
Case ID No. 41630
Reg. Ent. Reference No. RN104336276
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	$250	15-Mar-2011	25-Nov-2011	0.70	$9	n/a	$9
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$450	20-Feb-2011	9-May-2011	0.21	$5	n/a	$5

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished ($250). The date required is the date of the investigation and the final date is the expected date of compliance.

Estimated cost to prepare and submit the DMRs and the annual reports ($25 per DMR; $50 per annual report). Date required is the date the first missing DMR was due and 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 $700

TOTAL $14

Screening Date 13-May-2011 **Docket No.** 2011-0728-IWD-E **PCW**

Respondent Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC

Policy Revision 2 (September 2002)

Case ID No. 41630

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104336276

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES General Permit No. TXG110881, Part IV, No. 7(f)

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on March 15, 2011. Specifically, the annual metals and whole effluent toxicity ("WET") reports were not timely submitted for the monitoring period ending August 31, 2010 for Outfall Nos. 001 and 002.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: More than 70% of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 4 — 231 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $400

Four single events are recommended (one event per annual report for each outfall).

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $400

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $400

This violation Final Assessed Penalty (adjusted for limits) $400

Economic Benefit Worksheet

Respondent Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC
Case ID No. 41630
Reg. Ent. Reference No. RN104336276
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
	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)				0.00	$0	n/a	$0
Notes for DELAYED costs	See economic benefit for Violation No. 1.						
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 $0

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator:	CN602664617	RAPIDO REDI-MIX INC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN104336276	RAPIDO REDI-MIX	Classification: HIGH	Site Rating: 0.00

ID Number(s):

AIR NEW SOURCE PERMITS	REGISTRATION	72039
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HGA022V
AIR NEW SOURCE PERMITS	AFS NUM	4820101602
WASTE WATER GENERAL PERMIT	PERMIT	TXG110881
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HGA022V

Location: 4247 FUQUA STREET, HOUSTON, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 14, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 14, 2006 to June 14, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marty Hott Phone: (512) 239-2587

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? 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: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, 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	07/20/10	(863077)
2	08/17/10	(869625)
3	09/20/10	(876543)
4	10/19/10	(884109)
5	11/18/10	(890457)
6	12/17/10	(898865)
7	01/21/11	(904692)
8	04/21/11	(906049)
9	02/21/11	(911650)
10	03/16/11	(918924)
11	05/09/11	(932185)
12	05/09/11	(932186)
13	04/20/11	(932187)

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

Compliance History

Customer/Respondent/Owner-Operator:	CN603433715	Eusebio Torres	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104336276	RAPIDO REDI-MIX	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01

ID Number(s):

AIR NEW SOURCE PERMITS	REGISTRATION	72039
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HGA022V
AIR NEW SOURCE PERMITS	AFS NUM	4820101602
WASTE WATER GENERAL PERMIT	PERMIT	TXG110881
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HGA022V

Location: 4247 FUQUA STREET, HOUSTON, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 14, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 14, 2006 to June 14, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marty Hott Phone: (512) 239-2587

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? 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: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, 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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	
EUSEBIO TORRES DBA RAPIDO	**§**	**TEXAS COMMISSION ON**
REDI-MIX INC AND RAPIDO	**§**	
REDI-MIX INC	**§**	
RN104336276	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0728-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 Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents appear before the Commission and together stipulate that:

1. The Respondents own and operate a ready-mixed concrete company located at 4247 Fuqua Street in Houston, Harris County, Texas (the "Facility").

2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to any water in the state as defined in TEX. WATER CODE § 26.001(5).

3. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.

4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about April 25, 2011.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Four Hundred Dollars ($1,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid One Thousand One Hundred Twenty Dollars ($1,120) of the administrative penalty and Two Hundred Eighty Dollars ($280) is deferred contingent upon the Respondents' 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 Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents 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 Respondents 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 discharge monitoring reports ("DMRs") for the monitoring periods ending January 31, 2010 through May 31, 2010 for Outfall Nos. 001 and 002 and the annual metals and whole effluent toxicity ("WET") reports for the monitoring period ending August 31, 2010 for Outfall Nos. 001 and 002 were received by the TCEQ on May 9, 2011.

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 Respondents have 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 Faciliy, the Respondents are alleged to have failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110881, Part IV, No. 7(f), as documented during a record review conducted on March 15, 2011. Specifically, the DMRs were not timely submitted for the monitoring periods ending January 31, 2010, February 28, 2010, March 31, 2010, April 30, 2010, and May 31, 2010 for Outfall Nos. 001 and 002 and the annual metals and WET reports were not timely submitted for the monitoring period ending August 31, 2010 for Outfall Nos. 001 and 002.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' 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: Eusebio Torres dba RAPIDO REDI-MIX INC and RAPIDO REDI-MIX INC, Docket No. 2011-0728-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. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

3. It is further ordered that the Respondents 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 all reporting procedures are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual metals and WET reports, in accordance with TPDES General Permit No. TXG110881, Part IV, Standard Permit Conditions; and

   b. 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 No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Faciliy operations referenced in this Agreed Order.

5. If the Respondents fail 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, 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

For the Executive Director

8/31/11
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

7/7/11
Date

Eusebio Torres
Name (Printed or typed)
Authorized Representative of
Eusebio Torres dba RAPIDO REDI-MIX INC

7/7/11
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.

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Name (Printed or typed)
Authorized Representative of
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