

CAPTION: Docket No. 2010-1669-IWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Queen Ready Mix, Inc. in Harris County; RN102913043; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Lanae Foard, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1669-IWD-E **TCEQ ID:** RN102913043 **CASE NO.:** 40528
RESPONDENT NAME: The Queen Ready Mix, 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 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: The Queen Ready Mix, 8702 Liberty Road, Houston, Harris County

TYPE OF OPERATION: Concrete batch plant

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 April 18, 2011. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Jesus R. Gonzales, President, The Queen Ready Mix, Inc., 8702 Liberty Road, Houston, Texas 77028
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 8, 2010</p> <p>Date of NOV/NOE Relating to this Case: October 1, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failed to comply with permitted effluent limits for oil and grease, pH, and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110659, Part III Permit Requirements, Section A, and TEX. WATER CODE § 26.121(a)(1)].</p> <p>2) Failed to timely submit the discharge monitoring reports ("DMRs") for the monitoring periods ending September 30, 2009, October 31, 2009, November 30, 2009, February 28, 2010, April 30, 2010, and May 31, 2010, by the 20th day of the following month [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part IV Standard Permit Conditions 7.(f)].</p> <p>3) Failed to timely submit the monitoring results for metals for the annual monitoring period ending February 28, 2010, by the 20th day of the following month [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part IV Standard Permit Conditions 7.(f)].</p> <p>4) Failed to timely submit the results for whole effluent toxicity for the annual monitoring period ending February 28, 2010, by the 20th day of the following month [30 TEX. ADMIN.</p>	<p>Total Assessed: \$3,360</p> <p>Total Deferred: \$672 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$224 (remaining \$2,464 due in 11 monthly payments of \$224 each)</p> <p>Compliance History Classification: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) On November 19, 2010, submitted the monitoring results for metals for the annual monitoring period ending February 28, 2010, and the results for whole effluent toxicity for the annual monitoring period ending February 28, 2010; and</p> <p>b) On January 24, 2011, submitted the DMRs for the monitoring periods ending September 30, 2009, October 31, 2009, November 30, 2009, February 28, 2010, April 30, 2010, and May 31, 2010, for Outfall 001.</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, update operational procedures to ensure the DMRs are submitted by the 20th day of the month following the monitoring period;</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) Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES General Permit No. TXG110659, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

CODE § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part III Permit Requirements, Section D.3 and Part IV Standard Permit Conditions 7.(f)].		
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Additional ID No(s): TXG110659



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Oct-2010	Screening	8-Oct-2010	EPA Due	
	PCW	8-Oct-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	The Queen Ready Mix, Inc.		
Reg. Ent. Ref. No.	RN102913043		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40528	No. of Violations	4
Docket No.	2010-1669-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 8-Oct-2010

Docket No. 2010-1669-IWD-E

PCW

Respondent The Queen Ready Mix, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40528

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102913043

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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 (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
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) 20%

>> 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 for four months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 8-Oct-2010

Docket No. 2010-1669-IWD-E

PCW

Respondent The Queen Ready Mix, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40528

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102913043

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110659, Part III Permit Requirements, Section A

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on September 8, 2010, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	10%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 61 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDRP/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 \$442 Violation Final Penalty Total \$2,400

This violation Final Assessed Penalty (adjusted for limits) \$2,400

Economic Benefit Worksheet

Respondent The Queen Ready Mix, Inc.
Case ID No. 40528
Reg. Ent. Reference No. RN102913043
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	31-Mar-2010	5-Jul-2011	1.26	\$21	\$421	\$442
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

Estimated cost to determine the cause of noncompliance and to make necessary adjustments at the Facility. Date required is the first month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$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

\$5,000

TOTAL

\$442

Screening Date 8-Oct-2010

Docket No. 2010-1669-IWD-E

PCW

Respondent The Queen Ready Mix, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40528

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102913043

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part IV Standard Permit Conditions 7.(f)

Violation Description

Failed to timely submit the discharge monitoring reports ("DMRs") for the monitoring periods ending September 30, 2009, October 31, 2009, November 30, 2009, February 28, 2010, April 30, 2010, and May 31, 2010, by the 20th day of the following month, as documented during a record review conducted on September 8, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1%
More than 70% of permit requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 6 353 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$600

Six single events are recommended, one for each late DMR.

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 \$600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$70

Violation Final Penalty Total \$720

This violation Final Assessed Penalty (adjusted for limits) \$720

Economic Benefit Worksheet

Respondent The Queen Ready Mix, Inc.
Case ID No. 40528
Reg. Ent. Reference No. RN102913043
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	\$800	20-Oct-2009	24-Jan-2011	1.26	\$51	n/a	\$51
Training/Sampling	\$250	20-Oct-2009	2-May-2011	1.53	\$19	n/a	\$19
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

Estimated costs to submit the missing DMRs and to update operational procedures to ensure that DMRs are submitted by the 20th day of the month following the monitoring period. Date required is the date the first DMR was due. Final dates are the date the DMRs were submitted and the expected 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

\$1,050

TOTAL

\$70

Screening Date 8-Oct-2010

Docket No. 2010-1669-IWD-E

PCW

Respondent The Queen Ready Mix, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40528

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102913043

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part IV Standard Permit Conditions 7.(f)

Violation Description Failed to timely submit the monitoring results for metals for the annual monitoring period ending February 28, 2010, by the 20th day of the following month, as documented during a record review conducted on September 8, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
			X	1%	
More than 70% of the permit requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 202

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

Violation Base Penalty \$100

One single event is 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

Economic Benefit Worksheet

Respondent The Queen Ready Mix, Inc.
Case ID No. 40528
Reg. Ent. Reference No. RN102913043
Media Water Quality
Violation No. 3

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	\$25	20-Mar-2010	19-Nov-2010	0.67	\$1	n/a	\$1
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

Estimated cost to submit the monitoring results for metals for the monitoring period ending February 28, 2010. Date required is the date the report was due. 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

\$25

TOTAL

\$1

Screening Date 8-Oct-2010

Docket No. 2010-1669-IWD-E

PCW

Respondent The Queen Ready Mix, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40528

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102913043

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part III Permit Requirements, Section D.3 and Part IV Standard Permit Conditions 7.(f)

Violation Description Failed to timely submit the results for whole effluent toxicity for the annual monitoring period ending February 28, 2010, by the 20th day of the following month, as documented during a record review conducted on September 8, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1%

More than 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 202

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

Violation Base Penalty \$100

One single event is 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

Economic Benefit Worksheet

Respondent The Queen Ready Mix, Inc.
Case ID No. 40528
Reg. Ent. Reference No. RN102913043
Media Water Quality
Violation No. 4

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	\$25	20-Mar-2010	19-Nov-2010	0.67	\$1	n/a	\$1
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

Estimated cost to submit the results for whole effluent toxicity for the monitoring period ending February 28, 2010. Date required is the date the report was due. 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

\$25

TOTAL

\$1

Effluent Violation Table
The Queen Ready Mix, Inc.
TPDES General Permit No. TXG110659
Docket No. 2010-1669-IWD-E

Permitted Effluent Limits	Monitoring Period	
	March 2010	June 2010
Oil and Grease Daily Max. Conc. Limit = 15 mg/L	121	c
pH Max. Limit = 9 SU	c	9.13
Total Suspended Solids Daily Max. Conc. Limit = 65 mg/L	229	462

Max. = maximum
 Conc. = concentration
 c = compliant

SU = standard unit
 mg/L = milligram per liter

Compliance History Report

Customer/Respondent/Owner-Operator: CN601478100 The Queen Ready Mix, Inc. Classification: AVERAGE Rating: 1.64
Regulated Entity: RN102913043 THE QUEEN READY MIX Classification: AVERAGE Site Rating: 0.28
ID Number(s): WASTE WATER GENERAL PERMIT PERMIT TXG110659
Location: 8702 LIBERTY RD, HOUSTON, TX, 77028
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: October 07, 2010

Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 07, 2005 to October 07, 2010

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

Name: Lanae Foard Phone: (512) 239-2554

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 04/14/2008 (698210)
- 2 04/14/2008 (698212)
- 3 04/14/2008 (698214)
- 4 06/20/2008 (698213)
- 5 07/16/2008 (698207)
- 6 07/16/2008 (698208)
- 7 07/16/2008 (698209)
- 8 07/16/2008 (698211)
- 9 07/16/2008 (698215)
- 10 07/16/2008 (698216)
- 11 07/16/2008 (698217)
- 12 07/16/2008 (698218)
- 13 07/16/2008 (698219)
- 14 07/16/2008 (698220)
- 15 07/16/2008 (698221)
- 16 08/19/2008 (719769)
- 17 09/19/2008 (719770)
- 18 10/20/2008 (719771)
- 19 11/20/2008 (734793)
- 20 12/19/2008 (734794)
- 21 01/19/2009 (734795)
- 22 02/20/2009 (757994)
- 23 03/20/2009 (757995)
- 24 04/15/2009 (757996)
- 25 05/19/2009 (774452)
- 26 06/12/2009 (774453)
- 27 08/21/2009 (838077)
- 28 09/15/2009 (838076)
- 29 01/29/2010 (838078)
- 30 03/12/2010 (838074)
- 31 04/28/2010 (838075)
- 32 07/19/2010 (862955)
- 33 08/17/2010 (869527)
- 34 10/01/2010 (860245)

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

Date: 12/31/2007 (698221) CN601478100
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2009 (774453) CN601478100
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: 03/31/2010 (838075) CN601478100
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: 06/30/2010 (862955) CN601478100
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THE QUEEN READY MIX, INC.
RN102913043

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-1669-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 The Queen Ready 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 concrete batch plant located at 8702 Liberty Road in Houston, Harris 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 October 6, 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 Three Thousand Three Hundred Sixty Dollars (\$3,360) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Twenty-Four Dollars (\$224) of the administrative penalty and Six Hundred Seventy-Two Dollars (\$672) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Four Hundred Sixty-Four Dollars (\$2,464) of the administrative penalty shall be payable in 11 monthly payments of Two Hundred Twenty-Four Dollars (\$224) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On November 19, 2010, submitted the monitoring results for metals for the annual monitoring period ending February 28, 2010, and the results for whole effluent toxicity for the annual monitoring period ending February 28, 2010; and
 - b. On January 24, 2011, submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending September 30, 2009, October 31, 2009, November 30, 2009, February 28, 2010, April 30, 2010, and May 31, 2010, for Outfall 001.
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 TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXG110659, Part III Permit Requirements, Section A, as documented during a record review conducted on September 8, 2010, and shown in the following violation table:

Effluent Violation Table		
Permitted Effluent Limits	Monitoring Period	
	March 2010	June 2010
Oil and Grease Daily Max. Conc. Limit = 15 mg/L	121	c
pH Max. Limit = 9 SU	c	9.13
Total Suspended Solids Daily Max. Conc. Limit = 65 mg/L	229	462

Max. = maximum

Conc. = concentration

c = compliant

SU = standard unit

mg/L = milligram per liter

2. Failed to timely submit the DMRs for the monitoring periods ending September 30, 2009, October 31, 2009, November 30, 2009, February 28, 2010, April 30, 2010, and May 31, 2010, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part IV Standard Permit Conditions 7.(f), as documented during a record review conducted on September 8, 2010.
3. Failed to timely submit the monitoring results for metals for the annual monitoring period ending February 28, 2010, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part IV Standard Permit Conditions 7.(f), as documented during a record review conducted on September 8, 2010.
4. Failed to timely submit the results for whole effluent toxicity for the annual monitoring period ending February 28, 2010, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES General Permit No. TXG110659, Part III Permit Requirements, Section D.3 and Part IV Standard Permit Conditions 7.(f), as documented during a record review conducted on September 8, 2010.

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: The Queen Ready Mix, Inc., Docket No. 2010-1669-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 operational procedures to ensure that DMRs are submitted by the 20th day of the month following the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 305.125(17) and TPDES General Permit No. TXG110659, Part IV Standard Permit Conditions 7.(f);
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.d below;
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES General Permit No. TXG110659, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations, in accordance with Ordering Provision No. 2.d below; and
 - d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached

documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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

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.

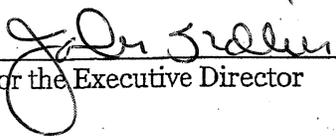
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by 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.

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



For the Executive Director

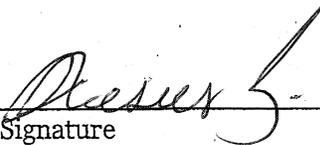
Date 3/28/2011

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

Date 02 08 11

Jesus R Gonzalez
Name (Printed or typed)
Authorized Representative of
The Queen Ready Mix, Inc.

Title Owner

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.