

Executive Summary – Enforcement Matter – Case No. 41244
RTI Hot Mix, Ltd.
RN104563473
Docket No. 2011-0330-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

North Quarry, 5301 State Highway 195, Williamson County

Type of Operation:

Limestone quarry

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 6, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,869

Amount Deferred for Expedited Settlement: \$373

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,496

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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RTI Hot Mix, Ltd.
RN104563473
Docket No. 2011-0330-WQ-E

Investigation Information

Complaint Date(s): November 24, 2010

Complaint Information: A complaint was received alleging potential issues with a bridge on the upper creek crossing. Only photographs were contained in the complaint, no comments were attached to the photographs, and the complainant could not be reached to clarify.

Date(s) of Investigation: December 15, 2010

Date(s) of NOE(s): February 11, 2011

Violation Information

1. Failed to maintain written records of structural control maintenance and estimated volumes removed from catch basins, sediment ponds, and other similar control structures. Specifically, written records for October, November, and December 2010 were not readily available at the time of the investigation [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXR05R551, Part III Sections A.5.(d) and A.5.(i)].
2. Failed to conduct employee training for all employees responsible for implementing or maintaining activities in the storm water pollution prevention plan (“SWP3”). Specifically, a new scale house operator had not been trained on the requirements to fill out the maintenance log and an employee was unsure of the location of the maintenance records for the months of October, November, and December 2010 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(f)].
3. Failed to regularly inspect and maintain structural controls at a frequency adequate to ensure effective operation. Specifically, the investigator documented that both a sediment trough and a sediment basket contained an accumulation of sediment, rocks, and debris and needed to be cleaned [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(d)].
4. Failed to implement adequate best management practices. Specifically, the investigator documented that the silt fence on the bridge located over the upper creek crossing was not secured to the bridge [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(e)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:

- a. On January 4, 2011, conducted employee training for all employees responsible for implementing or maintaining activities in the SWP3;

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RTI Hot Mix, Ltd.
RN104563473
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- b. On January 5, 2011, updated the maintenance records to include the months of October, November, and December 2010 and implemented procedures to ensure that written records of structural control maintenance and estimated volumes removed from catch basins, sediment ponds, and other similar control structures were being maintained;
- c. On January 5, 2011, submitted documentation that the silt fence on the bridge located over the upper creek crossing was properly secured to the bridge and that the sediment trough and a sediment basket had been cleaned; and
- d. On January 5, 2011, updated and began implementing an inspection and maintenance schedule to ensure effective operation of the structural controls.

Technical Requirements:

N/A

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
TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Mr. Doug Heatherly, General Manager, RTI Hot Mix, Ltd., 16409 Bratton Lane, Austin, Texas 78728
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Feb-2011	Screening	3-Mar-2011	EPA Due	
	PCW	7-Mar-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	RTI Hot Mix, Ltd.		
Reg. Ent. Ref. No.	RN104563473		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41244	No. of Violations	4
Docket No.	2011-0330-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7** **\$294**

14.0% Enhancement

Notes: Enhancement for two NOVs with same/similar violations and two NOVs with dissimilar violations within the last five years.

Culpability **Subtotal 4** **\$0**

No **0.0%** Enhancement

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$525**

Economic Benefit **Subtotal 6** **\$0**

0.0% Enhancement*
 *Capped at the Total EB \$ Amount

Total EB Amounts **\$6**
 Approx. Cost of Compliance **\$1,950**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,869**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

Final Penalty Amount **\$1,869**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,869**

DEFERRAL **Adjustment** **-\$373**

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

20.0% Reduction

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,496**

Screening Date 3-Mar-2011

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PCW

Respondent RTI Hot Mix, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 41244

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104563473

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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>)	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 14%

>> **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 two NOVs with same/similar violations and two NOVs with dissimilar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

Screening Date 3-Mar-2011

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PCW

Respondent RTI Hot Mix, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 41244

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104563473

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05R551, Part III Sections A.5.(d) and A.5.(i)

Violation Description Failed to maintain written records of structural control maintenance and estimated volumes removed from catch basins, sediment ponds, and other similar control structures. Specifically, written records for October, November, and December 2010 were not readily available at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (1%).

Matrix Notes 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 21

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$25

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent returned to compliance on January 5, 2011.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1 Violation Final Penalty Total \$89

This violation Final Assessed Penalty (adjusted for limits) \$89

Economic Benefit Worksheet

Respondent RTI Hot Mix, Ltd.
Case ID No. 41244
Req. Ent. Reference No. RN104563473
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	15-Dec-2010	5-Jan-2011	0.06	\$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

The estimated cost to maintain written records of structural control maintenance and estimated volumes removed from catch basins, sediment ponds, and other similar control structures. Date required is the date of the investigation 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

\$250

TOTAL

\$1

Screening Date 3-Mar-2011

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PCW

Respondent RTI Hot Mix, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 41244

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104563473

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(f)

Violation Description

Failed to conduct employee training for all employees responsible for implementing or maintaining activities in the storm water pollution prevention plan ("SWP3"). Specifically, a new scale house operator had not been trained on the requirements to fill out the maintenance log and an employee was unsure of the location of the maintenance records for the months of October, November, and December 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

20 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent returned to compliance on January 4, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$890

This violation Final Assessed Penalty (adjusted for limits) \$890

Economic Benefit Worksheet

Respondent RTI Hot Mix, Ltd.
Case ID No. 41244
Reg. Ent. Reference No. RN104563473
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$200	15-Dec-2010	4-Jan-2011	0.05	\$1	n/a	\$1
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
 The estimated cost to conduct employee training for all employees responsible for implementing or maintaining activities in the SWP3. Date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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
 (Empty box for notes)

Approx. Cost of Compliance	\$200	TOTAL	\$1
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Screening Date 3-Mar-2011

Docket No. 2011-0330-WQ-E

PCW

Respondent RTI Hot Mix, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 41244

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104563473

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(d)

Violation Description

Failed to regularly inspect and maintain structural controls at a frequency adequate to ensure effective operation. Specifically, the investigator documented that both a sediment trough and a sediment basket contained an accumulation of sediment, rocks, and debris and needed to be cleaned.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

21 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$125

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

Notes

The Respondent returned to compliance on January 5, 2011.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$445

This violation Final Assessed Penalty (adjusted for limits) \$445

Economic Benefit Worksheet

Respondent RTI Hot Mix, Ltd.
Case ID No. 41244
Req. Ent. Reference No. RN104563473
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				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)	\$1,000	15-Dec-2010	5-Jan-2011	0.06	\$3	n/a	\$3

Notes for DELAYED costs

The estimated cost to regularly inspect and maintain structural controls at a frequency adequate to ensure effective operation. Date required is the investigation date 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

\$1,000

TOTAL

\$3

Screening Date 3-Mar-2011

Docket No. 2011-0330-WQ-E

PCW

Respondent RTI Hot Mix, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 41244

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104563473

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(e)

Violation Description

Failed to implement adequate best management practices ("BMPs"). Specifically, the investigator documented that the silt fence on the bridge located over the upper creek crossing was not secured to the bridge.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

21 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$125

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

Notes The Respondent returned to compliance on January 5, 2011.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$445

This violation Final Assessed Penalty (adjusted for limits) \$445

Economic Benefit Worksheet

Respondent RTI Hot Mix, Ltd.
Case ID No. 41244
Req. Ent. Reference No. RN104563473
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	15-Dec-2010	5-Jan-2011	0.06	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost to implement adequate BMPs and to adequately secure the existing silt fence. Date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

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

\$500

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator:	CN602684359 RTI Hot Mix, Ltd.	Classification: AVERAGE	Rating: 7.29
Regulated Entity:	RN104563473 NORTH QUARRY	Classification: AVERAGE	Site Rating: 4.75
ID Number(s):	POLLUTION PREVENTION PLANNING STORMWATER	ID NUMBER PERMIT	P07219 TXR05R551
Location:	5301 STATE HIGHWAY 195 IN WILLIAMSON COUNTY, TEXAS		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	March 03, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 03, 2006 to March 03, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Samuel Short	Phone:	(512) 239-5363

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? Yes
3. If Yes, who is the current owner/operator? OWNOPR RTI Hot Mix, Ltd.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR RTI Hot Mix, Inc.
5. When did the change(s) in owner or operator occur? 11/27/2006 OWNOPR RTI Hot Mix, Inc.
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	11/26/2008	(708736)
2	12/22/2009	(780555)
3	12/08/2009	(783583)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/03/2008	(688178)	CN600949903
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Part III. A4a. PERMIT			
Description:	Failure to describe the "Cryl Suppress" and "No Phal" substances on the inventory of exposed materials.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Part III. A5b. PERMIT			
Description:	Failure to provide spill prevention and response measures to minimize the discharge of spilled materials from portions of the site that are exposed to storm water.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Part III. A5e. PERMIT			
Description:	Failure to provide sediment controls for dirt haul roads leading to Berry Creek.		
Date	02/20/2009	(726026)	CN600949903

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR050000 PERMIT		
Description:	Failure to conduct the Comprehensive Site Evaluation annually.		
Date	07/31/2009	(763338)	CN600949903
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR050000 PERMIT		
Description:	Failure to properly maintain BMPs is an alleged violation of 30 TAC Chapter 281.25(a)(4); specifically Permit TXR05R551, TXR05000, Part III, Section A(5)(d), which requires that BMPs be properly maintained.		
Self Report?	NO	Classification:	Moderate
Citation:	TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent unauthorized discharge of sediment into Water in the State; Texas Water Code, Chapter 26, Section 26.121(a)(2).		
Date	12/22/2009	(780553)	CN600949903
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TXR050000 PERMIT		
Description:	Failing to control the velocity of the permitted discharge. The discharge pipe from the road diversion drain contributes a large amount of run off with sufficient velocity to have scoured the BMPs (vegetation, rock rip rap).		

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
RTI HOT MIX, LTD.
RN104563473

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0330-WQ-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 RTI Hot Mix, Ltd. ("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 limestone quarry at 5301 State Highway 195 in Williamson County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 16, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Eight Hundred Sixty-Nine Dollars (\$1,869) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred

Ninety-Six Dollars (\$1,496) of the administrative penalty and Three Hundred Seventy-Three Dollars (\$373) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On January 4, 2011, conducted employee training for all employees responsible for implementing or maintaining activities in the storm water pollution prevention plan ("SWP3");
 - b. On January 5, 2011, updated the maintenance records to include the months of October, November, and December 2010 and implemented procedures to ensure that written records of structural control maintenance and estimated volumes removed from catch basins, sediment ponds, and other similar control structures were being maintained;
 - c. On January 5, 2011, submitted documentation that the silt fence on the bridge located over the upper creek crossing was properly secured to the bridge and that the sediment trough and a sediment basket had been cleaned; and
 - d. On January 5, 2011, updated and began implementing an inspection and maintenance schedule to ensure effective operation of the structural controls.
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 Site, the Respondent is alleged to have:

1. Failed to maintain written records of structural control maintenance and estimated volumes removed from catch basins, sediment ponds, and other similar control structures, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05R551, Part III Sections A.5.(d) and A.5.(i), as documented during an investigation conducted on December 15, 2010. Specifically, written records for October, November, and December 2010 were not readily available at the time of the investigation.
2. Failed to conduct employee training for all employees responsible for implementing or maintaining activities in the SWP3, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(f), as documented during an investigation conducted on December 15, 2010. Specifically, a new scale house operator had not been trained on the requirements to fill out the maintenance log and an employee was unsure of the location of the maintenance records for the months of October, November, and December 2010.
3. Failed to regularly inspect and maintain structural controls at a frequency adequate to ensure effective operation, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(d), as documented during an investigation conducted on December 15, 2010. Specifically, the investigator documented that both a sediment trough and a sediment basket contained an accumulation of sediment, rocks, and debris and needed to be cleaned.
4. Failed to implement adequate best management practices ("BMPs"), in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR05R551, Part III Section A.5.(e), as documented during an investigation conducted on December 15, 2010. Specifically, the investigator documented that the silt fence on the bridge located over the upper creek crossing was not secured to the bridge.

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: RTI Hot Mix, Ltd., Docket No. 2011-0330-WQ-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 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 Site operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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

5/12/2011

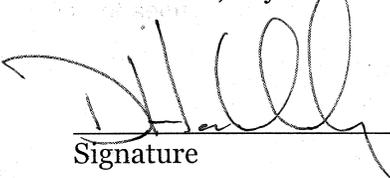
Date

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

03/25/11

Date

Doug HEATHERLY

Name (Printed or typed)
Authorized Representative of
RTI Hot Mix, Ltd.

GENERAL MANAGER

Title

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