

Executive Summary – Enforcement Matter – Case No. 41525
Tex Mix Partners, Ltd.
RN100242122
Docket No. 2011-0630-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Tex Mix Partners, 3200 Farm-to-Market Road 1660, Hutto, Williamson County

Type of Operation:

Ready-mix concrete plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 30, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$721

Amount Deferred for Expedited Settlement: \$144

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$577

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

**Executive Summary – Enforcement Matter – Case No. 41525
Tex Mix Partners, Ltd.
RN100242122
Docket No. 2011-0630-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): March 30, 2011

Violation Information

Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to timely submit discharge monitoring reports (“DMRs”) for the monitoring periods ending February 28, 2010; September 30, 2010; October 31, 2010; November 30, 2010; and December 31, 2010, and the annual metals and whole effluent toxicity (“WET”) reports for the monitoring period ending April 30, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TCEQ General Permit No. TXG110224, Part IV, No 7.f.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective actions at the Facility:

- a. By May 12, 2011, submitted the missing DMRs for the monitoring periods ending February 28, 2010; September 30, 2010; October 31, 2010; November 30, 2010; and December 31, 2010 and the annual metals and WET reports for the monitoring period ending April 30, 2010;
- b. By May 17, 2011, updated operational guidance and conducted employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly DMRs and annual reports; and
- c. On June 30, 2011, submitted a Notice of Change updating the number of outfalls at the Facility.

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

Executive Summary – Enforcement Matter – Case No. 41525

Tex Mix Partners, Ltd.

RN100242122

Docket No. 2011-0630-IWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Steve Villatoro, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-4930; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412.

TCEQ SEP Coordinator: N/A

Respondent: Dan Hanrahan, General Manager, Tex Mix Partners, Ltd., 3200 Farm-
to-Market Road 1660, Hutto, Texas 78634

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	4-Apr-2011	Screening	11-Apr-2011	EPA Due	
--------------	---------------------	------------	------------------	-------------	----------------	--

RESPONDENT/FACILITY INFORMATION

Respondent	Tex Mix Partners, Ltd.		
Reg. Ent. Ref. No.	RN100242122		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41525	No. of Violations	2
Docket No.	2011-0630-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 11-Apr-2011

Docket No. 2011-0630-IWD-E

PCW

Respondent Tex Mix Partners, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 41525

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100242122

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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>)	1	5%
	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>)	1	-2%
<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) 3%

>> **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 one NOV with same/similar violations and a reduction for one disclosure of violations.

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

Screening Date 11-Apr-2011
Respondent Tex Mix Partners, Ltd.
Case ID No. 41525
Reg. Ent. Reference No. RN100242122
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro
Violation Number 1

Docket No. 2011-0630-IWD-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d), and Texas Commission on Environmental Quality ("TCEQ") General Permit No. TXG110224, 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 Respondent failed to timely submit Discharge Monitoring Reports ("DMRs") for the monitoring periods ending February 28, 2010; September 30, 2010; October 31, 2010; November 30, 2010; and December 31, 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%
At least 70% of the rule requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Five monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

	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 \$500

Economic Benefit (EB) for this violation

Estimated EB Amount \$24

Statutory Limit Test

Violation Final Penalty Total \$515

This violation Final Assessed Penalty (adjusted for limits) \$515

Economic Benefit Worksheet

Respondent Tex Mix Partners, Ltd.
Case ID No. 41525
Reg. Ent. Reference No. RN100242122
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)	\$225	20-Mar-2010	12-May-2011	1.15	\$1	\$17	\$18
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	\$100	20-Mar-2010	17-May-2011	1.16	\$6	n/a	\$6
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 prepare and submit the DMRs (\$25 each) and annual reports (\$50 each) and conduct employee training. Date required is date the first report was due. Final date is the date the reports were submitted and the date the training was completed.

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

\$325

TOTAL

\$24

Screening Date 11-Apr-2011
Respondent Tex Mix Partners, Ltd.
Case ID No. 41525
Reg. Ent. Reference No. RN100242122
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0630-IWD-E

PCW

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

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d), and TCEQ General Permit No. TXG110224, 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 Respondent failed to timely submit the annual metals and whole effluent toxicity reports for the monitoring period ending April 30, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 340 Number of violation days

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

Violation Base Penalty \$200

Two annual events are recommended, one event per report.

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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$206

This violation Final Assessed Penalty (adjusted for limits) \$206

Economic Benefit Worksheet

Respondent Tex Mix Partners, Ltd.
Case ID No. 41525
Reg. Ent. Reference No. RN100242122
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:	CN600134720	Tex Mix Partners, Ltd.	Classification: AVERAGE	Rating: 1.33
Regulated Entity:	RN100242122	TEX MIX PARTNERS	Classification: AVERAGE	Site Rating: 0.10
ID Number(s):	WASTE WATER GENERAL PERMIT	PERMIT		TXG110224
	AIR NEW SOURCE PERMITS	PERMIT		40894
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		WK0255M
	AIR NEW SOURCE PERMITS	AFS NUM		4849100044
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER		WK0255M
Location:	3200 FM 1660, HUTTO, TX, 78634			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	April 05, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 05, 2006 to April 05, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Steve Villatoro</u>	Phone:	<u>(512) 239-4930</u>	

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 | Tex Mix Partners, LTD
N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | OWN | Tex Mix Partners, LTD
N/A |
| 5. When did the change(s) in owner or operator occur? | 07/22/2007 | OWN Tex Mix Partners, LTD
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 | 07/17/2008 | (697489) |
| 2 | 07/17/2008 | (697490) |
| 3 | 07/17/2008 | (697491) |
| 4 | 07/17/2008 | (697492) |
| 5 | 07/17/2008 | (697493) |
| 6 | 07/17/2008 | (697494) |
| 7 | 07/17/2008 | (697495) |
| 8 | 07/17/2008 | (697496) |
| 9 | 07/17/2008 | (697497) |
| 10 | 07/17/2008 | (697498) |
| 11 | 07/17/2008 | (697499) |
| 12 | 07/17/2008 | (697500) |
| 13 | 07/17/2008 | (697501) |
| 14 | 07/17/2008 | (697502) |
| 15 | 07/17/2008 | (697503) |
| 16 | 07/17/2008 | (697504) |
| 17 | 07/17/2008 | (697505) |
| 18 | 07/17/2008 | (697506) |
| 19 | 07/17/2008 | (697507) |
| 20 | 07/17/2008 | (697508) |

21	07/17/2008	(697509)
22	07/17/2008	(697510)
23	07/17/2008	(697511)
24	07/17/2008	(697512)
25	07/17/2008	(697513)
26	07/17/2008	(697514)
27	07/17/2008	(697515)
28	07/17/2008	(697516)
29	07/17/2008	(697517)
30	07/17/2008	(697518)
31	07/17/2008	(697519)
32	07/17/2008	(697520)
33	07/17/2008	(697521)
34	07/17/2008	(697522)
35	07/17/2008	(697523)
36	07/17/2008	(697524)
37	07/17/2008	(697525)
38	07/17/2008	(697526)
39	07/17/2008	(697527)
40	07/17/2008	(697528)
41	07/17/2008	(697529)
42	07/17/2008	(697530)
43	07/17/2008	(697531)
44	07/17/2008	(697532)
45	07/17/2008	(697533)
46	07/17/2008	(697534)
47	07/17/2008	(697535)
48	07/17/2008	(697536)
49	07/17/2008	(697537)
50	07/17/2008	(697538)
51	07/17/2008	(697539)
52	07/17/2008	(697540)
53	07/17/2008	(697541)
54	07/17/2008	(697542)
55	07/17/2008	(697543)
56	07/17/2008	(697544)
57	07/17/2008	(697545)
58	07/17/2008	(697546)
59	07/17/2008	(697547)
60	07/17/2008	(697548)
61	07/17/2008	(697549)
62	07/17/2008	(697550)
63	07/17/2008	(697551)
64	07/17/2008	(697552)
65	07/17/2008	(697553)
66	07/17/2008	(697554)
67	07/17/2008	(697555)
68	07/17/2008	(697556)
69	07/17/2008	(697557)
70	07/17/2008	(697558)
71	06/27/2008	(699477)
72	08/04/2008	(719172)
73	09/17/2008	(719173)
74	09/17/2008	(719174)
75	12/15/2008	(734334)
76	12/15/2008	(734335)

Description: 30 TAC Chapter 305, SubChapter F 305.125(17)
NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

Notice of Intent Date: 06/23/2005 (487656)
Disclosure Date: 12/22/2006

Viol. Classification: Moderate
Citation: 30 TAC Chapter 205, SubChapter A 205.4

Rqmt PERMIT TXG110000

Description: Failure to maintain SWP3 records and to have a SWP3 plan.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter A 106.4

30 TAC Chapter 106, SubChapter A 106.8(c)
30 TAC Chapter 116, SubChapter F 116.615(8)

Rqmt PERMIT 40894

Description: Failure to maintain records to demonstrate compliance with regulations.

Viol. Classification: Major
Citation: 30 TAC Chapter 106, SubChapter H 106.201

Rqmt PERMIT 40894

Description: Failure to have dust suppression for non-paved surfaces and stockpiles.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter H 106.201

Rqmt PERMIT 40894

Description: Failure to comply with stockpile distances for setback requirements.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter A 106.8

Description: Failure to notify TCEQ of baghouse equipment replacement.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter H 106.201

Rqmt PERMIT 43308

Description: Failure to comply with maintenance shroud requirements.

Viol. Classification: Moderate
Rqmt PERMIT TXG110224

Description: Failure to maintain best management practices for good housekeeping in accordance with TXG110000, Part II, Section F(2)(c)(1).

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
TEX MIX PARTNERS, LTD.
RN100242122**

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

AGREED ORDER DOCKET NO. 2011-0630-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 Tex Mix Partners, 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 ready-mix concrete plant located at 3200 Farm-to-Market Road 1660 in Hutto, Williamson County, Texas (the "Facility").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 4, 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 Seven Hundred Twenty-One Dollars (\$721) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Seventy-Seven Dollars (\$577) of

- the administrative penalty and One Hundred Forty-Four Dollars (\$144) 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 actions at the Facility:
 - a. By May 12, 2011, submitted the missing discharge monitoring reports ("DMRs") for the monitoring periods ending February 28, 2010; September 30, 2010; October 31, 2010; November 30, 2010; and December 31, 2010 and the annual metals and whole effluent toxicity ("WET") reports for the monitoring period ending April 30, 2010;
 - b. By May 17, 2011, updated operational guidance and conducted employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly DMRs and annual reports; and
 - c. On June 30, 2011, submitted a Notice of Change ("NOC") updating the number of outfalls at the Facility.
 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 failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on March 15, 2011, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TCEQ General Permit No. TXG110224, Part IV, No 7.f. Specifically, the Respondent failed to timely submit DMRs for the monitoring periods ending February 28, 2010; September 30, 2010; October 31, 2010; November 30, 2010; and December 31, 2010, and the annual metals and WET reports for the monitoring period ending April 30, 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: Tex Mix Partners, Ltd., Docket No. 2011-0630-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 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.
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

10/6/11

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

8/22/2011

Date

DAN HANRAHAN

Name (Printed or typed)
Authorized Representative of
Tex Mix Partners, 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.