

Executive Summary – Enforcement Matter – Case No. 41839

City Concrete, Inc.

RN101293041

Docket No. 2011-0966-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

City Concrete Plant No. 1, 1204 28th Street, Wichita Falls, Wichita County

Type of Operation:

Concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 30, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,614

Amount Deferred for Expedited Settlement: \$5,522

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$637

Total Due to General Revenue: \$21,455

Payment Plan: 35 payments of \$613 each

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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City Concrete, Inc.

RN101293041

Docket No. 2011-0966-IWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 5, 2011

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

Violation Information

1. Failed to submit a Notice of Change (“NOC”) within 14 days of discovering a Notice of Intent (“NOI”) was submitted with any missing relevant facts or incorrect information. Specifically, during the April 5, 2011 investigation, it was documented that the Facility has three outfalls, one storm water only and two storm water commingled with wastewater. However, the NOI indicated that there were only two outfalls at the Facility and the outfalls were identified as storm water only [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part II, Permit Applicability and Coverage Section C No. 5].
2. Failed to comply with permitted effluent limits for pH and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section A No. 5].
3. Failed to conduct an investigation to determine the cause of an exceedance of the benchmark parameters. Specifically, the investigations were not conducted when the benchmark parameters for total suspended solids and for total iron were exceeded during the sampling events conducted on February 8, 2010 and July 9, 2010 for Outfall 001 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section B No. 5].
4. Failed to conduct employee training at the interval specified in the Facility's storm water pollution prevention plan for 2010. Specifically, the Respondent did not perform the 2010 annual employee training [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(5)].
5. Failed to conduct, at a minimum, weekly good housekeeping measures to prevent or minimize the discharge of spilled cement, aggregate, settled dust, or other significant material from paved portions of the site that are exposed to storm water [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(1)].
6. Failed to conduct, at a minimum, monthly inspections of designated equipment and areas of the Facility for the months of: January 2010; February 2010; April 2010; May 2010; July 2010; August 2010; October 2010; November 2010; January 2011; and February 2011 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(4)].

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7. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to timely submit the whole effluent toxicity (“WET”) report for the monitoring period ending July 31, 2010, for outfall nos. 002 and 003 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), 319.7(d) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section D No. 3(a)].

8. Failed to conduct the annual comprehensive site compliance evaluation. Specifically, the Respondent did not evaluate all areas of the Facility during the previous comprehensive site compliance evaluation; specifically, the hopper/silos, dust collection system, above ground storage tank, truck wash down area, and equipment cleaning area were not evaluated [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(d)].

9. Failed to report in writing deviations greater than 40% from the permitted effluent limitations to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance. Specifically, the Respondent did not notify the Regional Office or Enforcement Division of effluent violations greater than 40% for total suspended solids for the sampling events conducted on: February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 2010 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section I No. 7(b)].

10. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit discharge monitoring reports (“DMRs”) for the monitoring periods ending October 31, 2010; November 30, 2010; December 31, 2010; January 31, 2011; February 28, 2011; and March 31, 2011, for Outfalls 002 and 003 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), 319.7(d), and TCEQ General Permit No. TXG110861 Part IV, Standard Permit Conditions No. 7(f)].

11. Failed to meet the holding times, preservation methods, and analytical methods for sampling events on February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1), and 319.11(b), 40 CODE OF FEDERAL REGULATIONS Part 136, and TCEQ General Permit No. TXG110861 Part IV, Standard Permit Conditions No. 7(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

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

- a. On May 1, 2011, began conducting, at a minimum, weekly good housekeeping measures;
- b. On May 9, 2011, conducted the annual employee training;

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- c. On May 23, 2011; began conducting, at a minimum, monthly inspections of designated equipment and areas;
- d. On September 8, 2011, submitted a NOC; and
- e. By October 13, 2011:
 - i. Submitted the WET report for the monitoring period ending July 31, 2010, for outfalls 002 and 003;
 - ii. Submitted the DMRs for the monitoring periods ending October 31, 2010, November 30, 2010, December 31, 2010, January 31, 2011, February 28, 2011, and March 31, 2011 for Outfalls 002 and 003;
 - iii. Submitted the noncompliance notifications for effluent violations greater than 40% for total suspended solids for the sampling events conducted on: February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 2010; and
- f. Purchased an electronic pH meter to conduct onsite sampling and testing.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Begin conducting the annual comprehensive compliance site evaluation;
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly and annual DMRs; and
 - iii. Begin properly conducting sampling analysis.
- b. Within 45 days, submit certification of compliance with Ordering Provisions a.i. through a.iii.
- c. Within 90 days, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. TXG110861, 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.

Litigation Information

Date Petition(s) Filed: N/A

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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: 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: Paul Foley, President, City Concrete, Inc., 1204 28th Street, Wichita
Falls, Texas 76302

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-May-2011	Screening	31-May-2011	EPA Due	
	PCW	27-Oct-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City Concrete, Inc.	
Reg. Ent. Ref. No.	RN101293041	
Facility/Site Region	3-Abilene	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	41839	No. of Violations	11
Docket No.	2011-0966-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: Enhancement for one monthly self-reported effluent violation and one order with denial of liability language.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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: Enhancement to capture avoided costs associated with violation nos. 3, 4, 5, 6, 8, and 9 and a reduction in the penalty so that reporting violations do not overly impact the penalty amount.

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: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 31-May-2011

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PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

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>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 25%

>> 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 monthly self-reported effluent violation and one order with denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 31-May-2011

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PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Commission on Environmental Quality ("TCEQ") General Permit No. TXG110861 Part II, Permit and Applicability and Coverage Section C No. 5

Violation Description Failed to submit a Notice of Change ("NOC") within 14 days of discovering a Notice of Intent ("NOI") was submitted with any missing relevant facts or incorrect information. Specifically, during the April 5, 2011, investigation it was documented that the Facility has three outfalls, one storm water only and two storm water commingled with wastewater. However, the NOI indicated that there were only two outfalls at the Facility and the outfalls were identified as storm water only.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 56 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,165

This violation Final Assessed Penalty (adjusted for limits) \$1,165

Economic Benefit Worksheet

Respondent: City Concrete, Inc.
Case ID No.: 41839
Reg. Ent. Reference No.: RN101293041
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				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)	\$100	5-Apr-2011	8-Sep-2011	0.43	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to prepare and submit an NOC. Date required is the date of the investigation. Final date is the NOC was submitted.

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

\$100

TOTAL

\$2

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section A No. 5

Violation Description Failed to comply with permitted effluent limits, as documented during the April 5, 2011, investigation and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

5 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$4,000

Four quarterly events are recommended (two events for each outfall).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$556

Violation Final Penalty Total \$4,661

This violation Final Assessed Penalty (adjusted for limits) \$4,661

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Reg. Ent. Reference No. RN101293041
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				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)	\$5,000	8-Feb-2010	30-Apr-2012	2.22	\$556	n/a	\$556

Notes for DELAYED costs

Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected 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

\$5,000

TOTAL

\$556

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section B No. 5

Violation Description

Failed to conduct an investigation to determine the cause of an exceedance of the benchmark parameters, as documented during an investigation conducted on April 5, 2011. Specifically, the investigations were not conducted when the benchmark parameters for total suspended solids and for total iron were exceeded during the sampling events conducted on February 8, 2010 and July 9, 2010 for outfall no. 001.

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 this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 2

2 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

Two single events are recommended (one for each sampling event).

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$213

Violation Final Penalty Total \$1,165

This violation Final Assessed Penalty (adjusted for limits) \$1,165

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Req. Ent. Reference No. RN101293041
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no 4.

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]	\$200	8-Feb-2010	9-Jul-2010	1.33	\$13	\$200	\$213
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct investigations to determine the cause of non-compliance (\$100 per discharge event). Date required is the date the first investigation was due. Final date is the date the last investigation was due.

Approx. Cost of Compliance

\$200

TOTAL

\$213

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(5)

Violation Description Failed to conduct employee training at the interval specified in the Facility's storm water pollution prevention plan ("SWP3") for 2010, as documented during the April 5, 2011, investigation. Specifically, the Respondent did not perform the 2010 annual employee training.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

515 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$1,000

One annual 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 May 9, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$267

Violation Final Penalty Total \$932

This violation Final Assessed Penalty (adjusted for limits) \$932

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Req. Ent. Reference No. RN101293041
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	\$500	5-Apr-2011	9-May-2011	0.09	\$2	n/a	\$2
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 update operational procedures and conduct employee training to ensure that requirements of the SWP3 will be fulfilled in the future. Date required is the date the investigation date. 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]	\$250	31-Dec-2010	5-Apr-2011	1.18	\$15	\$250	\$265
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct employee training. Date required is the date the training was due. Final date is the the investigation date.

Approx. Cost of Compliance \$750

TOTAL \$267

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(1)

Violation Description

Failed to conduct, at a minimum, weekly good housekeeping measures to prevent or minimize the discharge of spilled cement, aggregate, settled dust, or other significant material from paved portions of the Facility that are exposed to storm water, as documented during an investigation conducted on April 5, 2011.

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 this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

136 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 May 1, 2011.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,288

Violation Final Penalty Total \$466

This violation Final Assessed Penalty (adjusted for limits) \$466

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Req. Ent. Reference No. RN101293041
Media Water Quality
Violation No. 5

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 4.

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]	\$1,175	5-Apr-2010	5-Apr-2011	1.92	\$113	\$1,175	\$1,288
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct good housekeeping measures (\$25 per week). Required date is one year prior to the investigation. Final date is the date of the investigation.

Approx. Cost of Compliance

\$1,175

TOTAL

\$1,288

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(4)

Violation Description Failed to conduct, at a minimum, monthly inspections of designated equipment and areas of the Facility for the months of: January 2010; February 2010; April 2010; May 2010; July 2010; August 2010; October 2010; November 2010; January 2011; and February 2011, as documented during the April 5, 2011, investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			X	

>> 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 this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 10 Number of violation days 302

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$5,000

Ten single events are recommended.

Good Faith Efforts to Comply

10.0% Reduction \$500

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

Notes The Respondent returned to compliance on May 23, 2011.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$825

Violation Final Penalty Total \$5,360

This violation Final Assessed Penalty (adjusted for limits) \$5,360

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Reg. Ent. Reference No. RN101293041
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

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 4.

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]	\$750	31-Jan-2010	28-Feb-2011	1.99	\$75	\$750	\$825
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct monthly inspections (\$75 per inspection) of the designated equipment and areas of the Facility. Date required is the date the first inspection was due. Final date is the date the last inspection was due.

Approx. Cost of Compliance

\$750

TOTAL

\$825

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17), 319.7(d) and TCEQ General Permit No. TXG110861 Part III, Section D.3(a)

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented during an investigation conducted on April 5, 2011. Specifically, the Respondent failed to timely submit whole effluent toxicity ("WET") reports for the monitoring period ending July 31, 2010, for outfall nos. 002 and 003.

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 1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

2

515 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$200

Two single events are recommended (one event per report, per outfall).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The 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 \$32

Violation Final Penalty Total \$233

This violation Final Assessed Penalty (adjusted for limits) \$233

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Reg. Ent. Reference No. RN101293041
Media Water Quality
Violation No. 7

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	\$250	1-Sep-2010	30-Apr-2012	1.66	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	1-Sep-2010	13-Oct-2011	1.12	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to prepare and submit the annual reports (\$100 each) and conduct employee training to ensure submittal of DMRs and reports. Date required is date the first report was due. Final dates are the expected date of compliance and the date the reports were submitted.

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

\$450

TOTAL

\$32

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Section F.2(d)

Violation Description

Failed to conduct the annual comprehensive site compliance evaluation, as documented during the April 5, 2011, investigation. Specifically, the Respondent did not evaluate all areas of the Facility during the previous comprehensive site compliance evaluation; specifically, the hopper/silos, dust collection system, above ground storage tank, truck wash down area, and equipment cleaning area were not evaluated.

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 this violation.

Adjustment \$9,500

\$500

Violation Events

1

151 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

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$265

Violation Final Penalty Total \$583

This violation Final Assessed Penalty (adjusted for limits) \$583

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Req. Ent. Reference No. RN101293041
Media Water Quality
Violation No. 8

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 4.

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]	\$250	31-Dec-2010	5-Apr-2011	1.18	\$15	\$250	\$265
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct a complete annual comprehensive site compliance evaluation. Date required is the date the evaluation was due. Final date is the date the violation was documented.

Approx. Cost of Compliance

\$250

TOTAL

\$265

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section I No. 7(b)

Violation Description

Failed to report in writing deviations greater than 40% from the permitted effluent limitations to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance, as documented during an investigation conducted on April 5, 2011. Specifically, the Respondent did not notify the Regional Office or Enforcement Division of effluent violations greater than 40% for total suspended solids for the sampling events conducted on: February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 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 permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5

472 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

Five single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$133

Violation Final Penalty Total \$5,826

This violation Final Assessed Penalty (adjusted for limits) \$5,826

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Reg. Ent. Reference No. RN101293041
Media Water Quality
Violation No. 9

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 4.

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]	\$125	13-Feb-2010	14-Jul-2010	1.33	\$8	\$125	\$133
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to submit reports to the Executive Director and Enforcement Division (\$25 per report). Date required is the date the first report was due. Final date is the date the last report was due.

Approx. Cost of Compliance

\$125

TOTAL

\$133

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17), 319.7(d), and TCEQ General Permit No. TXG110861 Part IV, Standard Permit Conditions No. 7(f)

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented during the April 5, 2011, investigation. Specifically, the Respondent failed to timely submit Discharge Monitoring Reports ("DMRs") for the monitoring periods ending October 31, 2010; November 30, 2010; December 31, 2010; January 31, 2011; February 28, 2011; and March 31, 2011, for outfall nos. 002 and 003.

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 1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 12

437 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,200

Twelve monthly events are recommended (one per DMR, per outfall)

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$1,398

This violation Final Assessed Penalty (adjusted for limits) \$1,398

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Req. Ent. Reference No. RN101293041
Media Water Quality
Violation No. 10

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)	\$300	20-Nov-2010	13-Oct-2011	0.90	\$13	n/a	\$13

Notes for DELAYED costs Estimated cost to submit the DMRs (\$25 per DMR). See economic benefit for violation no 7. for delayed cost associated with training. Date required is the date the first report was due. Final date is the date the DMRs were submitted.

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 \$300

TOTAL \$13

Screening Date 31-May-2011

Docket No. 2011-0966-IWD-E

PCW

Respondent City Concrete, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41839

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101293041

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), and 319.11(b), 40 Code of Federal Regulation ("CFR") Part 136, and TCEQ General Permit No. TXG110861 Part IV, Standard Permit Conditions No. 7(c)

Violation Description

Failed to meet the holding times, preservation methods, and analytical methods for sampling events on February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 2010; as documented during an investigation conducted on April 5, 2011.

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 this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 5

5 Number of violation days

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

Violation Base Penalty \$2,500

Five single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$2,913

This violation Final Assessed Penalty (adjusted for limits) \$2,913

Economic Benefit Worksheet

Respondent City Concrete, Inc.
Case ID No. 41839
Reg. Ent. Reference No. RN101293041
Media Water Quality
Violation No. 11

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	\$150	5-Apr-2011	13-Oct-2011	0.52	\$0	\$5	\$5
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	\$100	5-Apr-2011	29-Feb-2012	0.90	\$5	n/a	\$5
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 purchase an electronic pH meter and to update operational guidance and conduct employee training to ensure that sampling methods comply with 40 CFR Part 136. Date required is the date the investigation date. Final date is the date of compliance 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

\$250

TOTAL

\$10

EFFLUENT VIOLATION TABLE

City Concrete, Inc.

TCEQ General Permit No. TXG110861

Docket No. 2011-0966-IWD-E

Month	Outfall No.002	pH	TSS Daily Max. Conc.	Outfall No. 003	pH	TSS Daily Max. Conc.
		Limit = 6.0 to 9.0 s.u.	Limit = 65 mg/L		Limit = 6.0 to 9.0 s.u.	Limit = 65 mg/L
February 2010		9.1	110		c	217
March 2010		c	c		10.5	591
April 2010		c	c		9.6	516
June 2010		9.1	c		9.6	256
July 2010		c	c		9.2	481

Max. = Maximum
 mg/L = milligrams per liter
 TSS = total suspended solids

c = compliant
 conc. = concentration
 s.u. = standard units



Compliance History

Customer/Respondent/Owner-Operator: CN600467559 CITY CONCRETE, INC. Classification: AVERAGE Rating: 2.02

Regulated Entity: RN101293041 CITY CONCRETE PLANT NO 1 Classification: AVERAGE Site Rating: 3.21

ID Number(s): AIR NEW SOURCE PERMITS AFS NUM 4848500208
 AIR NEW SOURCE PERMITS REGISTRATION 44054
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER WH00160
 AIR NEW SOURCE PERMITS PERMIT 76868
 WASTE WATER GENERAL PERMIT PERMIT TXG110861
 AIR EMISSIONS INVENTORY ACCOUNT NUMBER WH00160

Location: 1204 28th Street, Wichita Falls, Wichita County, TX, 76302

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: June 14, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 13, 2006 to June 13, 2011

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

Name: Steve Villatoro Phone: (512) 239-4930

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.
- Effective Date: 07/21/2008 ADMINORDER 2005-1580-AIR-E
 Classification: Major
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
 5C THC Chapter 382, SubChapter A 382.0518(a)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: City Concrete is alleged to have failed to obtain authorization prior to operate a source of air emissions.
- 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	08/04/2006	(486482)
2	12/19/2008	(735172)
3	01/19/2009	(735173)
4	02/17/2009	(758470)
5	03/19/2009	(758471)
6	04/17/2009	(758472)
7	04/17/2009	(758473)
8	05/18/2009	(774655)
9	06/10/2009	(774656)
10	02/19/2010	(839175)
11	03/18/2010	(839176)
12	04/16/2010	(839177)
13	05/19/2010	(839178)
14	08/01/2009	(839179)
15	09/18/2009	(839180)
16	10/19/2009	(839181)
17	11/19/2009	(839182)
18	12/16/2009	(839183)
19	01/14/2010	(839184)

20 06/18/2010 (848521)
21 07/20/2010 (863048)
22 08/24/2010 (869613)
23 09/17/2010 (876523)
24 10/20/2010 (884091)
25 05/11/2011 (915588)

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

Date: 03/31/2009 (758472) CN600467559
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.

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
CITY CONCRETE, INC.
RN101293041

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0966-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 City Concrete, 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 1204 28th Street in Wichita Falls, Wichita 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 May 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 Twenty-Seven Thousand Six Hundred Fourteen Dollars (\$27,614) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Thirty-Seven Dollars (\$637) of the administrative penalty and Five Thousand Five Hundred Twenty-

Two Dollars (\$5,522) 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.

The remaining amount of Twenty-One Thousand Four Hundred Fifty-Five Dollars (\$21,455) of the administrative penalty shall be payable in 35 monthly payments of Six Hundred Thirteen Dollars (\$613) 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 actions at the Facility:
 - a. On May 1, 2001, began conducting, at a minimum, weekly good housekeeping measures;
 - b. On May 9, 2011, conducted the annual employee training;
 - c. On May 23, 2011; began conducting, at a minimum, monthly inspections of designated equipment and areas;
 - d. On September 8, 2011, submitted a Notice of Change ("NOC"); and
 - e. By October 13, 2011:
 - i. Submitted the whole effluent toxicity ("WET") report for the monitoring period ending July 31, 2010, for outfall nos. 002 and 003;
 - ii. Submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending October 31, 2010, November 30, 2010, December 31, 2010, January 31, 2011, February 28, 2011, and March 31, 2011 for outfall nos. 002 and 003;

- iii. Submitted the noncompliance notifications for effluent violations greater than 40% for total suspended solids for the sampling events conducted on: February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 2010; and
 - iv. Purchased an electronic pH meter to conduct onsite sampling and testing.
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 submit a NOC within 14 days of discovering a Notice of Intent ("NOI") was submitted with any missing relevant facts or incorrect information, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part II, Permit Applicability and Coverage Section C No. 5, as documented during an investigation conducted on April 5, 2011. Specifically, during the April 5, 2011, investigation it was documented that the Facility has three outfalls, one storm water only and two storm water commingled with wastewater. However, the NOI indicated that there were only two outfalls at the Facility and the outfalls were identified as storm water only.
2. Failed to comply with permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section A No. 5, as documented during an investigation conducted on April 5, 2011 and shown in the table below:

EFFLUENT VIOLATION TABLE						
Month	Outfall No. 002	pH	TSS Daily Max. Conc.	Outfall No. 003	pH	TSS Daily Max. Conc.
		Limit = 6.0 to 9.0 s.u.	Limit = 65 mg/L		Limit = 6.0 to 9.0 s.u.	Limit = 65 mg/L
February 2010		9.1	110		c	217
March 2010		c	c		10.5	591
April 2010		c	c		9.6	516
June 2010		9.1	c		9.6	256
July 2010		c	c		9.2	481

Max. = Maximum

mg/L = milligrams per liter

TSS = total suspended solids

c = compliant

conc. = concentration

s.u. = standard units

3. Failed to conduct an investigation to determine the cause of an exceedance of the benchmark parameters, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section B No. 5, as documented during an investigation conducted on April 5, 2011. Specifically, the investigations were not conducted when the benchmark parameters for total suspended solids and for total iron were exceeded during the sampling events conducted on February 8, 2010 and July 9, 2010 for outfall no. 001.
4. Failed to conduct employee training at the interval specified in the Facility's storm water pollution prevention plan ("SWP3") for 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(5), as documented during an investigation conducted on April 5, 2011. Specifically, the Respondent did not perform the 2010 annual employee training.
5. Failed to conduct, at a minimum, weekly good housekeeping measures to prevent or minimize the discharge of spilled cement, aggregate, settled dust, or other significant material from paved portions of the site that are exposed to storm water, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(1), as documented during an investigation conducted on April 5, 2011.
6. Failed to conduct, at a minimum, monthly inspections of designated equipment and areas of the Facility for the months of: January 2010; February 2010; April 2010; May 2010; July 2010; August 2010; October 2010; November 2010; January 2011; and February 2011, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General

Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(c)(4), as documented during an investigation conducted on April 5, 2011.

7. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), 319.7(d) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section D No. 3(a), as documented during an investigation conducted on April 5, 2011. Specifically, the Respondent failed to timely submit the WET report for the monitoring period ending July 31, 2010, for outfall nos. 002 and 003.
8. Failed to conduct the annual comprehensive site compliance evaluation, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F No. 2(d), as documented during the April 5, 2011, investigation. Specifically, the Respondent did not evaluate all areas of the Facility during the previous comprehensive site compliance evaluation; specifically, the hopper/silos, dust collection system, above ground storage tank, truck wash down area, and equipment cleaning area were not evaluated.
9. Failed to report in writing deviations greater than 40% from the permitted effluent limitations to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section I No. 7(b), as documented during an investigation conducted on April 5, 2011. Specifically, the Respondent did not notify the Regional Office or Enforcement Division of effluent violations greater than 40% for total suspended solids for the sampling events conducted on: February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 2010.
10. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), 319.7(d), and TCEQ General Permit No. TXG110861 Part IV, Standard Permit Conditions No. 7(f), as documented during an investigation conducted on April 5, 2011. Specifically, the Respondent failed to submit DMRs for the monitoring periods ending October 31, 2010; November 30, 2010; December 31, 2010; January 31, 2011; February 28, 2011; and March 31, 2011, for outfall nos. 002 and 003.
11. Failed to meet the holding times, preservation methods, and analytical methods for sampling events on February 8, 2010; March 25, 2010; April 23, 2010; June 29, 2010; and July 9, 2010, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), and 319.11(b), 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 136, and TCEQ General Permit No. TXG110861 Part IV, Standard Permit Conditions No. 7(c), as documented during an investigation conducted on April 5, 2011.

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: City Concrete, Inc., Docket No. 2011-0966-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:
 - i. Begin conducting the annual comprehensive compliance site evaluation, in accordance with TCEQ General Permit No. TXG110861 Part III, Permit Requirements Section F.2(d);
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly and annual DMRs, in accordance with TCEQ General Permit No. TXG110861, Part IV, Standard Permit Conditions No. 7(f); and
 - iii. Begin properly conducting sampling analysis, in accordance with TCEQ General Permit No. TXG110861 Part III, Standard Permit Conditions No. 7(c), and 40 CFR Part 136;
 - b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision Nos. 2.a.i through 2.a.iii. The certification shall be 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 permitted effluent limits of TPDES Permit No. TXG110861, 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. The certification shall be in accordance with Ordering Provision No. 2.d below; and

- d. The written certification of compliance required by Ordering Provision Nos. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 fine 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
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

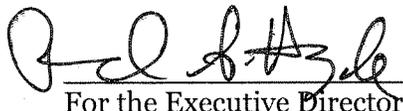
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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

4/20/12

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

02/03/12

Date

PAUL FOLEY

Name (Printed or typed)
Authorized Representative of
City Concrete, Inc.

PRESIDENT

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.