

Executive Summary – Enforcement Matter – Case No. 51258

TXI Operations, LP

RN100217199

Docket No. 2015-1396-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

TXI Operations, 245 Ward Road, Midlothian, Ellis County

Type of Operation:

Cement manufacturing 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 4, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,688

Amount Deferred for Expedited Settlement: \$4,537

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,076

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$9,075

Name of SEP: North Central Texas Council of Governments (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 28, 2015

Date(s) of NOE(s): August 27, 2015

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TXI Operations, LP
RN100217199
Docket No. 2015-1396-AIR-E

Violation Information

1. Failed to comply with the permitted nitrogen oxides ("NOx") emissions limit. Specifically, the Respondent exceeded the NOx emissions limit of 1.95 pounds per ton clinker ("lbs/ton clinker") based on a 30-day rolling average for Kiln 5, Emission Point Number ("EPN") 2-22, by an average of 0.05 lb/ton clinker for 20 days from December 25, 2013 through January 29, 2014 and by an average of 0.11 lb/ton clinker for 40 days from March 27, 2014 through May 10, 2014, resulting in the release of 34,752 pounds of NOx [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), Federal Operating Permit ("FOP") No. O1077, Special Terms and Conditions No. 12, New Source Review Permit Nos. 1360A and PSDTX632M1, Special Conditions No. 3.A.(1), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to report all instances of deviations. Specifically, the deviation report for the July 25, 2013 through January 25, 2014 reporting period did not include the deviation for the failure to comply with the NOx emissions limit of 1.95 lbs/ton clinker based on a 30-day rolling average for EPN 2-22 from December 25, 2013 through January 25, 2014 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O1077, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

a. By May 11, 2014, established audible alarms for emissions exceedances at the kilns, programmed the 30-day rolling averages of emissions status to display on the kiln operator screens, and implemented weekly reports of the 30-day rolling average emissions to be distributed to all kiln operators, management, and environmental staff; and

b. By August 18, 2014, reported the deviation for the failure to comply with the NOx emissions limit for Kiln 5, EPN 2-22, from December 25, 2013 to January 25, 2014 in the deviation report for the January 25, 2014 through July 25, 2014 reporting period.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

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Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Raime Hayes-Falero, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3567; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Roselyn Bar, Vice President and Secretary, TXI Operations, LP, 245 Ward Road, Midlothian, Texas 76065-9645
Kerri Kerr, Environmental Manager, TXI Operations, LP, 245 Ward Road, Midlothian, Texas 76065-9645
Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-1396-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	TXI Operations, LP
Penalty Amount:	Eighteen Thousand One Hundred Fifty-One Dollars (\$18,151)
SEP Offset Amount:	Nine Thousand Seventy-Five Dollars (\$9,075)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	North Central Texas Council of Governments
Project Name:	<i>North Central Texas Clean School Bus Program</i>
Location of SEP:	Dallas - Fort Worth Air Quality Control Region No. 215; Ellis County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **North Central Texas Council of Governments** for the *North Central Texas Clean School Bus Program* SEP. The contribution will be used in accordance with the SEP, the Third-Party Administrator, and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses, or retrofitting them with nitrogen oxides reduction technology, that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to either 100% of the purchase price of a school bus that is model year 2010 or newer, to replace a diesel school bus that is model year 2002 or older, or 100% of the cost to retrofit a diesel school bus that is model year 2002 or older, and with nitrogen oxides reduction technology. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **North Central Texas Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

NCTCOG
Centerpoint Two
616 Six Flags Drive
Arlington, Texas 76011

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	31-Aug-2015	Screening	11-Sep-2015	EPA Due	21-Feb-2016
	PCW	10-Dec-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	TXI Operations, LP		
Reg. Ent. Ref. No.	RN100217199		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	51258	No. of Violations	2
Docket No.	2015-1396-AIR-E	Order Type	1660
Media Program(s)	Alr	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raime Hayes-Falero
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000
		EC's Team	Enforcement Team 5

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	\$194	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,250	

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-Sep-2015

Docket No. 2015-1396-AIR-E

PCW

Respondent TXI Operations, LP

Policy Revision 4 (April 2014)

Case ID No. 51258

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100217199

Media [Statute] Air

Enf. Coordinator Ralme Hayes-Falero

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>)	0	0%
	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 judgments 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>)	1	-1%
	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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Reduction for one Notice of Intent to conduct an audit. However, because the reduction would be below zero, the enhancement defaults to zero.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 11-Sep-2015
Respondent TXI Operations, LP
Case ID No. 51258
Reg. Ent. Reference No. RN100217199
Media [Statute] Air
Enf. Coordinator Ralme Hayes-Falero
Violation Number 1

Docket No. 2015-1396-AIR-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), Federal Operating Permit ("FOP") No. O1077, Special Terms and Conditions No. 12, New Source Review Permit Nos. 1360A and PSDTX632M1, Special Conditions No. 3.A.(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the permitted nitrogen oxides ("NOx") emissions limit. Specifically, the Respondent exceeded the NOx emissions limit of 1.95 pounds per ton clinker ("lbs/ton clinker") based on a 30-day rolling average for Kiln 5, Emission Point Number ("EPN") 2-22, by an average of 0.05 lb/ton clinker for 20 days from December 25, 2013 through January 29, 2014 and by an average of 0.11 lb/ton clinker for 40 days from March 27, 2014 through May 10, 2014, resulting in the release of 34,752 pounds of NOx.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			X		30.0%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$17,500

\$7,500

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 \$30,000

Four monthly events are recommended for the instances of non-compliance that occurred from December 25, 2013 to January 29, 2014 and from March 27, 2014 to May 10, 2014.

Good Faith Efforts to Comply

Reduction

\$7,500

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

Notes The Respondent completed corrective actions on May 11, 2014, before the August 27, 2015 Notice of Enforcement ("NOE").

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$188

Violation Final Penalty Total \$22,500

This violation Final Assessed Penalty (adjusted for limits) \$22,500

Economic Benefit Worksheet

Respondent TXI Operations, LP
Case ID No. 51258
Reg. Ent. Reference No. RN100217199
Media Air
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
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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)	\$10,000	25-Dec-2013	11-May-2014	0.38	\$188	n/a	\$188

Notes for DELAYED costs

Estimated cost to establish audible alarms for emissions exceedances, program the 30-day rolling averages of emissions status to display on the kiln operator screens, and implement weekly reports of the 30-day rolling average emissions to be distributed to all kiln operators, management, and environmental staff. The Date Required is the first date of non-compliance and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$188

Screening Date 11-Sep-2015
Respondent TXI Operations, LP
Case ID No. 51258
Reg. Ent. Reference No. RN100217199
Media [Statute] Air
Enf. Coordinator Ralme Hayes-Falero
Violation Number 2

Docket No. 2015-1396-AIR-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), FOP No. O1077, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to report all instances of deviations. Specifically, the deviation report for the July 25, 2013 through January 25, 2014 reporting period did not include the deviation for the failure to comply with the NOx emissions limit of 1.95 lbs/ton clinker based on a 30-day rolling average for EPN 2-22 from December 25, 2013 through January 25, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1.0%

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

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 174 Number of violation days

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

Violation Base Penalty \$250

One single event is recommended for the incomplete report.

Good Faith Efforts to Comply

25.0%

Reduction

\$62

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

Notes The Respondent completed corrective action on August 18, 2014, before the August 27, 2015 NOE.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$188

This violation Final Assessed Penalty (adjusted for limits) \$188

Economic Benefit Worksheet

Respondent TXI Operations, LP
Case ID No. 51258
Reg. Ent. Reference No. RN100217199
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$250	24-Feb-2014	18-Aug-2014	0.48	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to report the deviation for the failure to comply with the NOx emissions limit for Kiln 5, EPN 2-22, from December 25, 2013 to January 25, 2014 in the deviation report for the January 25, 2014 through July 25, 2014 reporting period. The Date Required is the date the deviation report was due and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$6



Compliance History Report

PUBLISHED Compliance History Report for CN600125157, RN100217199, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN600125157, TXI Operations, LP	Classification:	SATISFACTORY	Rating:	0.70
Regulated Entity:	RN100217199, TXI OPERATIONS	Classification:	HIGH	Rating:	0.00
Complexity Points:	30	Repeat Violator:	NO		
CH Group:	10 - Cement and Concrete Product Manufacturing				
Location:	245 WARD RD MIDLOTHIAN, TX 76065-9645, ELLIS COUNTY				
TCEQ Region:	REGION 04 - DFW METROPLEX				

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER ED0066B	AIR OPERATING PERMITS PERMIT 1077
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD007349327	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 33918
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 33918	INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50319001
USED OIL REGISTRATION A85557	USED OIL EPA ID TXD007349327
AIR NEW SOURCE PERMITS AFS NUM 4813900009	AIR NEW SOURCE PERMITS ACCOUNT NUMBER ED0066B
AIR NEW SOURCE PERMITS PERMIT 56271	AIR NEW SOURCE PERMITS PERMIT 1360A
AIR NEW SOURCE PERMITS REGISTRATION 49617	AIR NEW SOURCE PERMITS REGISTRATION 50701
AIR NEW SOURCE PERMITS REGISTRATION 50056	AIR NEW SOURCE PERMITS REGISTRATION 75198
AIR NEW SOURCE PERMITS REGISTRATION 76371	AIR NEW SOURCE PERMITS REGISTRATION 79370
AIR NEW SOURCE PERMITS REGISTRATION 79979	AIR NEW SOURCE PERMITS REGISTRATION 81823
AIR NEW SOURCE PERMITS REGISTRATION 83073	AIR NEW SOURCE PERMITS REGISTRATION 83984
AIR NEW SOURCE PERMITS REGISTRATION 83128	AIR NEW SOURCE PERMITS EPA PERMIT PSDTX632M1
AIR NEW SOURCE PERMITS REGISTRATION 88314	AIR NEW SOURCE PERMITS REGISTRATION 91551
AIR NEW SOURCE PERMITS REGISTRATION 112048	WASTEWATER PERMIT WQ0004379000
WASTEWATER EPA ID TX0064777	STORMWATER PERMIT TXR05K042
TIRES REGISTRATION 6200431	AIR EMISSIONS INVENTORY ACCOUNT NUMBER ED0066B
POLLUTION PREVENTION PLANNING ID NUMBER P01571	

Compliance History Period:	September 01, 2010 to August 31, 2015	Rating Year:	2015	Rating Date:	09/01/2015
Date Compliance History Report Prepared:	March 31, 2016				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	December 10, 2010 to December 10, 2015				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Raime Hayes-Falero **Phone:** (713) 767-3567

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	December 17, 2010	(897097)
Item 2	January 17, 2011	(878754)
Item 3	January 20, 2011	(903013)
Item 4	February 25, 2011	(909884)
Item 5	March 17, 2011	(917123)
Item 6	April 19, 2011	(927407)
Item 7	May 16, 2011	(908968)
Item 8	May 20, 2011	(938819)
Item 9	June 07, 2011	(915734)
Item 10	June 14, 2011	(946187)
Item 11	July 20, 2011	(953455)
Item 12	July 22, 2011	(934857)
Item 13	August 11, 2011	(960087)
Item 14	September 20, 2011	(966137)
Item 15	October 07, 2011	(948307)
Item 16	October 18, 2011	(972164)
Item 17	November 15, 2011	(978324)
Item 18	November 28, 2011	(968237)
Item 19	December 19, 2011	(969740)
Item 20	December 20, 2011	(985123)
Item 21	January 19, 2012	(991400)
Item 22	February 15, 2012	(983271)
Item 23	February 16, 2012	(998762)
Item 24	March 16, 2012	(1004285)
Item 25	April 17, 2012	(1010846)
Item 26	May 18, 2012	(1017221)
Item 27	June 14, 2012	(1025006)
Item 28	July 19, 2012	(1032359)
Item 29	July 27, 2012	(1015100)
Item 30	August 20, 2012	(1038779)
Item 31	September 07, 2012	(1030130)
Item 32	September 17, 2012	(1047661)
Item 33	October 15, 2012	(1065148)
Item 34	November 16, 2012	(1065149)
Item 35	December 18, 2012	(1065150)
Item 36	January 16, 2013	(1080724)
Item 37	February 14, 2013	(1080723)
Item 38	March 19, 2013	(1090138)
Item 39	April 17, 2013	(1096520)
Item 40	May 13, 2013	(1107477)
Item 41	June 19, 2013	(1111120)
Item 42	June 21, 2013	(1086443)
Item 43	July 15, 2013	(1118013)
Item 44	August 13, 2013	(1125813)
Item 45	September 16, 2013	(1130357)
Item 46	October 08, 2013	(1136127)
Item 47	October 29, 2013	(1123170)
Item 48	November 05, 2013	(1141501)
Item 49	December 10, 2013	(1147962)
Item 50	January 20, 2014	(1154033)
Item 51	February 13, 2014	(1161355)

Item 52	March 17, 2014	(1168005)
Item 53	April 09, 2014	(1175155)
Item 54	May 07, 2014	(1157245)
Item 55	May 12, 2014	(1181345)
Item 56	June 16, 2014	(1188240)
Item 57	June 28, 2014	(1165026)
Item 58	July 14, 2014	(1199891)
Item 59	July 17, 2014	(1179463)
Item 60	August 11, 2014	(1199892)
Item 61	September 03, 2014	(1206618)
Item 62	October 07, 2014	(1213035)
Item 63	November 06, 2014	(1219293)
Item 64	December 03, 2014	(1225072)
Item 65	January 05, 2015	(1231970)
Item 66	January 16, 2015	(1217205)
Item 67	February 10, 2015	(1243083)
Item 68	March 11, 2015	(1229867)
Item 69	March 18, 2015	(1198283)
Item 70	April 13, 2015	(1256329)
Item 71	May 11, 2015	(1263063)
Item 72	June 11, 2015	(1270211)
Item 73	July 13, 2015	(1277745)
Item 74	July 17, 2015	(1261803)
Item 75	August 07, 2015	(1283920)
Item 76	September 15, 2015	(1291070)
Item 77	October 06, 2015	(1297268)
Item 78	November 10, 2015	(1281554)
Item 79	November 18, 2015	(1302713)
Item 80	December 03, 2015	(1294825)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

Notice of Intent Date: 11/23/2015 (1296247)

No DOV Associated

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

K. Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TXI OPERATIONS, LP
RN100217199**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-1396-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TXI Operations, LP ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a cement manufacturing plant located at 245 Ward Road in Midlothian, Ellis County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director 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 September 1, 2015.
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-Two Thousand Six Hundred Eighty-Eight Dollars (\$22,688) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Seventy-Six Dollars (\$9,076) of the administrative penalty and Four Thousand Five Hundred

Thirty-Seven Dollars (\$4,537) 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. Nine Thousand Seventy-Five Dollars (\$9,075) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. By May 11, 2014, established audible alarms for emissions exceedances at the kilns, programmed the 30-day rolling averages of emissions status to display on the kiln operator screens, and implemented weekly reports of the 30-day rolling average emissions to be distributed to all kiln operators, management, and environmental staff; and
 - b. By August 18, 2014, reported the deviation for the failure to comply with the nitrogen oxides ("NOx") emissions limit for Kiln 5, Emission Point Number ("EPN") 2-22, from December 25, 2013 to January 25, 2014 in the deviation report for the January 25, 2014 through July 25, 2014 reporting period.
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 Plant, the Respondent is alleged to have:

1. Failed to comply with the permitted NOx emissions limit, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), Federal Operating Permit ("FOP") No. O1077, Special Terms and Conditions No. 12, New Source Review Permit Nos. 1360A and

PSDTX632M1, Special Conditions No. 3.A.(1), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 28, 2015. Specifically, the Respondent exceeded the NOx emissions limit of 1.95 pounds per ton clinker ("lbs/ton clinker") based on a 30-day rolling average for Kiln 5, EPN 2-22, by an average of 0.05 lb/ton clinker for 20 days from December 25, 2013 through January 29, 2014 and by an average of 0.11 lb/ton clinker for 40 days from March 27, 2014 through May 10, 2014, resulting in the release of 34,752 pounds of NOx.

2. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), FOP No. O1077, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 28, 2015. Specifically, the deviation report for the July 25, 2013 through January 25, 2014 reporting period did not include the deviation for the failure to comply with the NOx emissions limit of 1.95 lbs/ton clinker based on a 30-day rolling average for EPN 2-22 from December 25, 2013 through January 25, 2014.

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: TXI Operations, LP, Docket No. 2015-1396-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Nine Thousand Seventy-Five Dollars (\$9,075) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.

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 Plant 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/16/16

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.

Roselyn Bar

Signature

1/12/16

Date

Roselyn Bar

Name (Printed or typed)
Authorized Representative of
TXI Operations, LP

VP and Secretary

Title

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

Attachment A
Docket Number: 2015-1396-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	TXI Operations, LP
Penalty Amount:	Eighteen Thousand One Hundred Fifty-One Dollars (\$18,151)
SEP Offset Amount:	Nine Thousand Seventy-Five Dollars (\$9,075)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	North Central Texas Council of Governments
Project Name:	<i>North Central Texas Clean School Bus Program</i>
Location of SEP:	Dallas - Fort Worth Air Quality Control Region No. 215; Ellis County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **North Central Texas Council of Governments** for the *North Central Texas Clean School Bus Program* SEP. The contribution will be used in accordance with the SEP, the Third-Party Administrator, and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to reduce nitrogen oxides, volatile organic compounds, carbon monoxide, and particulate matter emissions by replacing older diesel buses with newer buses, or retrofitting them with nitrogen oxides reduction technology, that meet more stringent emission standards. The Third-Party Administrator shall use the SEP Offset Amount for up to either 100% of the purchase price of a school bus that is model year 2010 or newer, to replace a diesel school bus that is model year 2002 or older, or 100% of the cost to retrofit a diesel school bus that is model year 2002 or older, and with nitrogen oxides reduction technology. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions which contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. In addition, by encouraging less school bus idling, this SEP contributes to public awareness of environmental matters.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **North Central Texas Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

NCTCOG
Centerpoint Two
616 Six Flags Drive
Arlington, Texas 76011

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.