

Executive Summary – Enforcement Matter – Case No. 51547
Navasota Concrete, Inc.
RN104760962
Docket No. 2015-1738-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Navasota Concrete, 5970 Farm-to-Market Road 3455, Navasota, Grimes County

Type of Operation:

Ready-mixed concrete plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 22, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,923

Amount Deferred for Expedited Settlement: \$1,984

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$239

Total Due to General Revenue: \$7,700

Payment Plan: 35 payments of \$220 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

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: October 7, 2015

Date(s) of NOE(s): November 6, 2015

Executive Summary – Enforcement Matter – Case No. 51547
Navasota Concrete, Inc.
RN104760962
Docket No. 2015-1738-IWD-E

Violation Information

1. Failed to submit effluent monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring reports ("DMRs") for the months of September, October, November, and December 2014, and February 2015 were not submitted by the 20th day of the following month as required [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111229, Part IV. Standard Permit Conditions No. 7.f.].

2. Failed to collect and analyze effluent samples at the required frequency. Specifically, monitoring for whole effluent toxicity, using the *Daphnia pulex* and *Pimephales promelas*, was not conducted for the annual monitoring period ending February 28, 2015. The Respondent reported on the DMR that the composite sample was not collected [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b), and TPDES General Permit No. TXG111229, Part III. Permit Requirements, Section A, No. 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Submit the DMRs for the months of September, October, November, and December 2014, and February 2015; and
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that all monitoring and sampling activities and self-reporting requirements are properly accomplished, including submittal of DMRs and analytical results of the required annual whole effluent toxicity tests.

- b. Within 45 days, submit written certification of compliance with a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 51547
Navasota Concrete, Inc.
RN104760962
Docket No. 2015-1738-IWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: Derek Nelson, Chief Financial Officer, Navasota Concrete, Inc., 5970 Farm-to-Market 3455 Road, Navasota, Texas 77868

Travis M. Nelson, President, Navasota Concrete, Inc., 5970 Farm-to-Market 3455 Road, Navasota, Texas 77868

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	16-Nov-2015	Screening	18-Nov-2015	EPA Due	
	PCW	11-Dec-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Navasota Concrete, Inc.
Reg. Ent. Ref. No.	RN104760962
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	51547	Order Type	1660
Docket No.	2015-1738-IWD-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Jill Russell
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

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 Adjustment **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	\$571
Estimated Cost of Compliance	\$875

*Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **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 18-Nov-2015

Docket No. 2015-1738-IWD-E

PCW

Respondent Navasota Concrete, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51547

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104760962

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

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 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>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> **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

Enhancement for one month of self-reported effluent violations and one order with denial of liability.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 25%

Screening Date 18-Nov-2015

Docket No. 2015-1738-IWD-E

PCW

Respondent Navasota Concrete, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51547

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104760962

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111229, Part IV. Standard Permit Conditions No. 7.f

Violation Description Failed to submit effluent monitoring results at the intervals specified in the permit, as documented during a record review conducted on October 7, 2015. Specifically, the discharge monitoring reports ("DMRs") for the months of September, October, November, and December 2014 and February 2015 were not submitted by the 20th day of the following month as required.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		X			5.0%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5 Number of violation days 393

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

Violation Base Penalty \$6,250

Five single events are recommended, one for each missing report.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$8,269

This violation Final Assessed Penalty (adjusted for limits) \$8,269

Economic Benefit Worksheet

Respondent Navasota Concrete, Inc.
Case ID No. 51547
Reg. Ent. Reference No. RN104760962
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	\$250	7-Oct-2015	27-Aug-2016	0.89	\$11	n/a	\$11
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$125	20-Oct-2014	27-Aug-2016	1.85	\$12	n/a	\$12

Notes for DELAYED costs

Estimated Training/Sampling cost to update the Facility's operational guidance and conduct employee training to ensure that all monitoring and sampling activities and self-reporting requirements are properly accomplished, including submittal of complete DMRs and analytical results of the required annual whole effluent toxicity tests. Date required is the record review date. Final date is the estimated date of compliance.

Estimated Other (as needed) cost to submit the missing DMRs (\$25 per report). Date required is the date the first monthly DMR was due. Final date is the estimated 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

\$375

TOTAL

\$23

Screening Date 18-Nov-2015

Docket No. 2015-1738-IWD-E

PCW

Respondent Navasota Concrete, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51547

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104760962

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.5(b), and TPDES General Permit No. TXG111229, Part III. Permit Requirements, Section A, No. 2

Violation Description

Failed to collect and analyze effluent samples at the required frequency, as documented during a record review conducted on October 7, 2015. Specifically, monitoring for whole effluent toxicity, using the Daphnia pulex and Pimephales promelas, was not conducted for the annual monitoring period ending February 28, 2015. The Respondent reported on the DMR that the composite sample was not collected.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 263

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
Single event	X

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$548

Violation Final Penalty Total \$1,654

This violation Final Assessed Penalty (adjusted for limits) \$1,654

Economic Benefit Worksheet

Respondent Navasota Concrete, Inc.
Case ID No. 51547
Reg. Ent. Reference No. RN104760962
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$500	1-Mar-2014	28-Feb-2015	1.92	\$48	\$500	\$548

Notes for AVOIDED costs

Estimated avoided cost for failing to collect and analyze the effluent sample for the required annual whole effluent toxicity test. Date required and final date are calculated for the monitoring period in which the whole effluent toxicity test was required to be completed.

Approx. Cost of Compliance

\$500

TOTAL

\$548

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600918338, RN104760962, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600918338, Navasota Concrete, Inc. **Classification:** SATISFACTORY **Rating:** 5.44

Regulated Entity: RN104760962, Navasota Concrete **Classification:** SATISFACTORY **Rating:** 5.44

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 5970 Farm-to-Market 3455 Road in Navasota, Grimes County, Texas

TCEQ Region: REGION 09 - WACO

ID Number(s):

WASTEWATER PERMIT TXG111229

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: November 17, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 17, 2010 to November 17, 2015

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

Name: Jill Russell

Phone: (512) 239-4564

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:

- 1 Effective Date: 02/20/2011 ADMINORDER 2010-0998-IWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 18, 2010	(890433)	Item 25	March 28, 2013	(1092089)
Item 2	December 21, 2010	(898837)	Item 26	April 19, 2013	(1098515)
Item 3	January 20, 2011	(904669)	Item 27	May 20, 2013	(1109499)
Item 4	February 21, 2011	(911627)	Item 28	June 20, 2013	(1113043)
Item 5	March 16, 2011	(918895)	Item 29	July 19, 2013	(1119990)
Item 6	July 20, 2011	(955242)	Item 30	August 20, 2013	(1127809)
Item 7	August 16, 2011	(955239)	Item 31	September 20, 2013	(1132268)
Item 8	September 16, 2011	(967980)	Item 32	October 19, 2013	(1138038)
Item 9	October 14, 2011	(973904)	Item 33	November 20, 2013	(1143430)
Item 10	November 19, 2011	(980059)	Item 34	December 20, 2013	(1149935)
Item 11	December 20, 2011	(986872)	Item 35	January 17, 2014	(1156035)
Item 12	January 24, 2012	(993261)	Item 36	February 11, 2014	(1163353)
Item 13	February 20, 2012	(1000616)	Item 37	March 20, 2014	(1169880)
Item 14	March 20, 2012	(1006100)	Item 38	May 20, 2014	(1183362)
Item 15	May 23, 2012	(1019223)	Item 39	June 20, 2014	(1190260)
Item 16	June 22, 2012	(1026945)	Item 40	July 18, 2014	(1195464)
Item 17	July 20, 2012	(1034256)	Item 41	August 20, 2014	(1202293)
Item 18	August 20, 2012	(1040840)	Item 42	September 19, 2014	(1208488)
Item 19	September 20, 2012	(1045708)	Item 43	March 20, 2015	(1251407)
Item 20	October 19, 2012	(1072576)	Item 44	April 20, 2015	(1258341)
Item 21	November 20, 2012	(1072577)	Item 45	May 21, 2015	(1265113)
Item 22	December 14, 2012	(1072578)	Item 46	June 19, 2015	(1272219)
Item 23	January 18, 2013	(1084818)	Item 47	July 20, 2015	(1279732)
Item 24	February 20, 2013	(1084817)	Item 48	August 18, 2015	(1285928)

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.

1 Date: 01/31/2015 (1245037) CN600918338
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NAVASOTA CONCRETE, INC.
RN104760962**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-1738-IWD-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 Navasota Concrete, Inc. ("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 together stipulate that:

1. The Respondent owns and operates a ready-mixed concrete plant located at 5970 Farm-to-Market 3455 Road in Navasota, Grimes 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 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 November 11, 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 Nine Thousand Nine Hundred Twenty-Three Dollars (\$9,923) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid Two Hundred Thirty-Nine Dollars (\$239) of the penalty and One Thousand Nine Hundred Eighty-Four Dollars (\$1,984) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of Seven Thousand Seven Hundred Dollars (\$7,700) of the penalty shall be paid in 35 monthly payments of Two Hundred Twenty Dollars (\$220) each. The first monthly payment shall be paid within 30 days after the effective date of this 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 comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this 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 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 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.
10. 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.
11. 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 effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111229, Part IV. Standard Permit Conditions No. 7.f, as documented during a record review conducted on October 7, 2015. Specifically, the discharge monitoring reports ("DMRs")

for the months of September, October, November, and December 2014, and February 2015 were not submitted by the 20th day of the following month as required.

2. Failed to collect and analyze effluent samples at the required frequency, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b), and TPDES General Permit No. TXG111229, Part III. Permit Requirements, Section A, No. 2, as documented during a record review conducted on October 7, 2015. Specifically, monitoring for whole effluent toxicity, using the *Daphnia pulex* and *Pimephales promelas*, was not conducted for the annual monitoring period ending February 28, 2015. The Respondent reported on the DMR that the composite sample was not collected.

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: Navasota Concrete, Inc., Docket No. 2015-1738-IWD-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. 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. Submit the DMRs for the months of September, October, November, and December 2014, and February 2015, in accordance with TPDES General Permit No. TXG111229; and
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that all monitoring and sampling activities and self-reporting requirements are properly accomplished, including submittal of DMRs and analytical results of the required annual whole effluent toxicity tests, in accordance with TPDES General Permit No. TXG111229.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i and 2.a.ii. The certification 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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. 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



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.

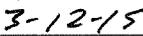
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- 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.

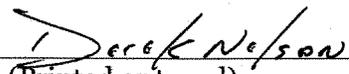
In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature



Date



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



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.