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March 16, 2009

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Via Hand Delivery

2009 MAR 16 PM 3:00
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

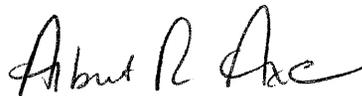
Re: TCEQ Docket No. 2008-1839-AIR
Air Quality Permit Number 1360A
Application by TXI Operations, LP, RN#100217199
Cement Manufacturing Plant, Midlothian, Ellis County

Dear Agenda Docket Clerk:

Enclosed please find an original and seven (7) copies of TXI Operations, LP's Response to Hearing Requests to be filed in connection with the above-referenced matter. Also, enclosed is an extra copy of this document to be date-stamped and returned to me for my records via our courier.

We appreciate your assistance with this matter. Please feel free to contact my office should you have any questions.

Sincerely,



Albert R. Axe, Jr.

ARA:ltn
Enclosures
cc (w/encl.): Persons on Mailing List (*Via Regular U.S. Mail*)

**TCEQ DOCKET NO. 2008-1839-AIR
AIR QUALITY PERMIT NUMBER 1360A**

MAR 16 PM 3:00

APPLICATION BY	§	BEFORE THE
TXI OPERATIONS, LP	§	CHIEF CLERK'S OFFICE
RN#100217199	§	TEXAS COMMISSION
CEMENT MANUFACTURING PLANT	§	ON
MIDLOTHIAN, ELLIS COUNTY	§	ENVIRONMENTAL
		QUALITY

APPLICANT'S RESPONSE TO HEARING REQUESTS

Pursuant to 30 TAC 55.209(d), TXI Operations, LP, Applicant for the above captioned air quality permit renewal ("TXI" or "Applicant"), respectfully files this response to the hearing requests filed in this matter.

INTRODUCTION AND BACKGROUND

The Applicant owns and operates a cement manufacturing plant in Midlothian, Texas referred to as the Midlothian Cement Plant or "Plant." The Plant has been in operation since 1960 when its first cement kiln was constructed. The Plant now includes 4 wet process cement kilns and 1 preheater/precalciner kiln ("Kiln 5"). Under Permit No. 1360A, TXI is authorized to operate only 2 of the wet process kilns when Kiln 5 is in operation. Currently, due to market conditions, all 4 of the wet process kilns have been temporarily idled.

The Plant consists of not only the kiln operations (where the raw materials are heated to the point that chemical reactions occur to form an intermediary material called "clinker"), but also the quarry from which the primary raw material (limestone) is mined, raw material storage and blending, fuel storage and handling, the finishing mills (where the cement is produced), the product load out area, and other associated activities. Air emissions from all of these Plant activities are covered by Permit No. 1360A.

TXI's application to renew Permit 1360A does not request an increase in allowable emissions or authorization to emit an air contaminant not previously emitted. Applicant provided notice to the public of its renewal application in accordance with the TCEQ's rules. The Executive Director's staff has reviewed the renewal application, has found it to be administratively and technically complete, and has prepared a proposed permit that is acceptable to the Applicant.

I.

THE TEXAS HEALTH AND SAFETY CODE AND THE COMMISSION'S RULES DO NOT ALLOW A CONTESTED CASE HEARING ON AIR QUALITY PERMIT RENEWALS THAT DO NOT INVOLVE AN INCREASE OR CHANGE IN EMISSIONS.

TXI's application to renew its Permit No. 1360A does not seek, nor does the draft permit authorize, an increase in allowable emissions or the emission of an air contaminant not previously emitted. The renewal application simply requests authorization to continue the same activities under the same emissions limits currently authorized under Permit No. 1360A.

Under §382.056(g) of the Texas Clean Air Act ("TCAA") found at Tex. Health & Safety Code Ann. §382.056(g) (Vernon Supp. 2008), the Commission may not seek further public comment or hold a contested case hearing in response to a request for a public hearing on a renewal application such as TXI's:

The commission may not seek further public comment or hold a public hearing under the procedures provided by Subsections (i)-(n) in response to a request for a public hearing on an amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted.

Tex. Health & Safety Code Ann. §382.056(g) (Vernon Supp. 2008).

The use of the words "may not" by the Texas Legislature in Section 382.056(g) means that the TCEQ is not authorized to grant a request for a public hearing or to seek further public comment relative to the specific types of environmental permit applications set out in that section, including a renewal application that does not seek an increase or change in the nature of the air contaminants authorized to be emitted. As stated in Section 311.016 of the Code Construction Act:

Section 311.016. "MAY," "SHALL," "MUST," ETC. The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:

* * *

(5) "May not" imposes a prohibition and is synonymous with "shall not."

* * *

Code Construction Act found at Tex. Gov't Code Ann. §311.016 et seq. (Vernon Supp. 2008).

The above-cited provision of the Code Construction Act applies to (i) each code enacted by the 60th or a subsequent legislature, and (ii) each amendment, repeal, revision, and re-enactment of a code or code provision by the 60th or a subsequent legislature. *See* Code Construction Act §311.002. The Texas Health and Safety Code was enacted by the 71st Legislature in 1989 (Acts 1989, 71st Leg., Ch. 678 eff. Sept. 1, 1989) and §382.056(g) was enacted by the 76th Legislature in 1999 (Acts 1999, 76th Leg., Ch. 1350, § 5 eff. Sept. 1, 1999). Thus, §382.056(g) prohibits the Commission from granting the hearing requests filed in this matter unless some other legislative enactment provides an exception.¹

The Legislature has created a limited exception to the general rule that the Commission may not hold a contested case hearing on a permit renewal application covered by §382.056(g). This exception is contained in §382.056(o) of the TCAA and reads as follows:

Notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant's compliance history is in the lowest classification under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections.

Tex. Health & Safety Code Ann. §382.056(o) (Vernon Supp. 2008)

The TCEQ's rules, at 30 TAC §55.201(i)(3)(C), also state that no right to a contested case hearing exists for renewal applications covered by §382.056(g) of the TCAA but that the commission "may hold a contested case hearing if the application involves a facility for which the applicant's compliance history contains violations that are unresolved and that constitute a recurring pattern of egregious conduct that demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations."

30 Tex. Admin. Code §55.201(i)(3)(C) (emphasis added)

¹ But see, *ASARCO Incorporated v. Texas Commission on Environmental Quality*, No. GN4011709 (261st Dist. Ct., Travis County, Tex. March 9, 2005).

A copy of TXI's compliance history compiled in accordance with §§5.753 and 5.754 of the Texas Water Code and the TCEQ's implementing rules, is attached as Exhibit 1. A review of this compliance history shows that neither TXI nor the Midlothian Cement Plant is in the "lowest classification under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections." The lowest classification requires a compliance history score of over 45 points. TXI's overall rating is 2.08 and the Midlothian Cement Plant's rating is 0.56, placing both the company and the individual site in the "average" classification (i.e., within the range of 0.10 points to 45 points) and very close to the "high performer" classification (fewer than 0.10 points). Furthermore, TXI's compliance history does not contain violations that are unresolved. No Notice of Violation or Notice of Enforcement is currently outstanding. Moreover, TXI's compliance history clearly does not contain violations that constitute a recurring pattern of egregious conduct that demonstrates a consistent disregard for the regulatory process. To the contrary, TXI's Midlothian Plant is one of the most highly regulated facilities in the State of Texas yet it maintains an exemplary record of compliance with the state's environmental laws and regulations.

II.

CONDITIONS FOR RENEWAL OF PERMIT

Under §382.055(e) of the TCAA, in the context of air quality permit renewals, the Commission may not impose requirements that are more stringent than those of the existing permit "unless the Commission determines that the requirements are necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements." *Id.* at §382.055(e).

1. Compliance with applicable federal or state air quality control requirements

TXI has submitted information to the Executive Director demonstrating that the Midlothian Cement Plant is being operated in compliance with all applicable federal and state air quality control requirements. TXI's compliance with these requirements is supported by the results of numerous inspections of the Midlothian Cement Plant conducted by EPA and TCEQ.

2. Avoidance of a Condition of Air Pollution

Exhaustive monitoring of the air quality in Midlothian over many years, including monitoring in the predominant downwind direction from the Midlothian Cement Plant, has demonstrated that the Plant is not creating a condition of air pollution. The TCEQ is currently conducting the most recent of what has been a series of air studies in Midlothian. The study will consist of four separate sampling events (one per quarter) over a one-year time span. For each quarter, 24-hour samples will be collected for five consecutive days at five different sampling locations. Data from the first round of sampling have been analyzed by the TCEQ's Toxicology Division which has prepared a report summarizing its findings.² These findings have once again confirmed that monitored levels of volatile organic compounds, metals and particulate matter are well below the TCEQ's short-term Effects Screening Levels and are consistent with historic monitoring results for the Midlothian area.³

III.

PRAYER FOR RELIEF

In view of the foregoing, TXI will not burden this Honorable Commission by addressing the seven (7) issues listed in Section 55.209(e) of the TCEQ's rules. Instead, Applicant respectfully prays that the Commission deny the hearing requests and approve the renewal of Permit No. 1360A as recommended by the Executive Director.

² See TCEQ Toxicology Division Interoffice Memorandum dated March 5, 2009 regarding Toxicological Evaluation of the Midlothian, Texas Ambient Air Collection and Analytical Chemical Analysis Contract First Quarter Sampling Data.

³ Effects Screening Levels are used by the TCEQ to evaluate the potential for effects to occur as a result of exposure to concentrations of constituents in the air. ESLs are based on data concerning health effects, the potential for odors to be a nuisance, effects on vegetation, and corrosive effects. They are not ambient air standards. If predicted or measured airborne levels of a constituent **do not exceed** the screening level, adverse health or welfare effects are not expected. If ambient levels of constituents in air **exceed** the screening levels, it does not necessarily indicate a problem but rather triggers a review in more depth.

Respectfully submitted,

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By: Albert R. Axe, Jr.

Albert R. Axe, Jr.
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on all persons on the attached Mailing List via hand delivery, fax, or regular mail this 16th day of March, 2009.

Albert R. Axe, Jr.
Albert R. Axe, Jr.

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ON ENVIRONMENTAL
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2009 MAR 16 PM 3:00
CHIEF CLERKS OFFICE

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DOCKET NO. 2008-1839-AIR; PERMIT NO. 1360A

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DICK & SHARON SCHOECH
2614 CHINQUAPIN OAK LN
ARLINGTON TX 76012-2840

JOHN & KATHY REYES
6302 HUNTERS PKWY
FRISCO TX 75035

ANN K SEARS
3911 CEMENT VALLEY RD
MIDLOTHIAN TX 76065-5309

PATRICIA REYES
1110 W CAMP WISDOM RD
DUNCANVILLE TX 75116

ROBERT & TYDA SHIELDS
530 LYNNIE PENNY LN
MIDLOTHIAN TX 76065-5174

SAM RODGERS
1140 CEDAR DR
MIDLOTHIAN TX 76065

TAMI SLATER
2020 CLEARVIEW DR
MIDLOTHIAN TX 76065-5450

ELIZABETH RODZINSKY
3209 AVONDALE ST
FORT WORTH TX 76109-1004

ALISHA SMITH
6401 ELM SPRINGS DR
ARLINGTON TX 76001

MR JACK E SNIDER
4370 OLD FORT WORTH RD
MIDLOTHIAN TX 76065-4904

MR R D & MRS R D THOMAS
2908 CROOKED CREEK DR
CARROLLTON TX 75007

CAROL A & EDWARD B SOPH
1620 VICTORIA DR
DENTON TX 76209-1378

MARTA TINGDALE
RN
202 OVERHILL DR
WAXAHACHIE TX 75165-1842

DORA R & EDGAR R STAHL
1507 AMBLESIDE LN
RICHARDSON TX 75082-3041

MARILYN TONKON
13 LAKESIDE PARK
DALLAS TX 75225

PATRICIA STELLA
6032 DAVEN OAKS DR
DALLAS TX 75248-2119

JUDITH M TOWNES
3203 HOWARD RD
WAXAHACHIE TX 75165

MARY STEVENSON
2976 GOLFING GREEN DR
DALLAS TX 75234

GARY TREIDER
2820 CLEARVIEW DR
MIDLOTHIAN TX 76065-5454

CARL J STONE
501 E LILLY LN
ARLINGTON TX 76010-5709

ANN TRENTON
4008 BROOKMOOR
ARLINGTON TX 76016

WENDY SUNSHINE
PO BOX 13027
ARLINGTON TX 76094-0027

GIOVANNI ULIBARRI
301 STILES DR
MIDLOTHIAN TX 76065-3617

JOAN SUSMAN
6227 TWIN OAKS CIR
DALLAS TX 75240

IRVIN A UPHOFF
2532 ALDEN AVE
DALLAS TX 75211-2713

DARREL SUSMON
8821 ARBORSIDE DR
DALLAS TX 75243

SANDY WARD
401 LEXINGTON LN
EULESS TX 76039

STEVEN SVERDLIK
3989 HIGHGROVE DR
DALLAS TX 75220

CHARLES & SUSAN WASKEY
6230 FM 1830
ARGYLE TX 76226

DEAN THOMAS
990 KING ARTHUR DR
MIDLOTHIAN TX 76065-5431

LINDA P & MARK WASSENICH
5221 PEBBLEBROOK DR
DALLAS TX 75229-5504

RICHARD L WASSERMAN, PHD
MD
7153 LAVENDALE AVE
DALLAS TX 75230-3650

THOMAS WATTS
1108 BRIARWOOD BLVD
ARLINGTON TX 76013-1509

LEE ANN WHITE
3624 SHELBY DR
MIDLOTHIAN TX 76065

JUDITH WOOD
3913 WILLOW WAY RD
FORT WORTH TX 76133

JONNA WOODBURN
2310 FM 1387
MIDLOTHIAN TX 76065

ROBERT WOODBURN
2310 FM 1387
MIDLOTHIAN TX 76065

MR BRAD & MRS LAURIE YOUNG
3021 CLEAR CREEK DR
MIDLOTHIAN TX 76065-5449

DEBORA YOUNG
PO BOX 470041
FORT WORTH TX 76147-0041

DON YOUNG
PO BOX 470041
FORT WORTH TX 76147-0041

CATHY ZELZER
14833 MIDWAY RD
ADDISON TX 75001

GEORGE ZIMMERMAN
217 TEAKWOOD LN
LEWISVILLE TX 75067-6530

PUBLIC OFFICIALS - INTERESTED PERSON(S)
THE HONORABLE DAN BARRETT
STATE REPRESENTATIVE, HOUSE OF REPRESENTATIVES

PO BOX 2910
AUSTIN TX 78768-2910

INTERESTED PERSON(S)
BRIAN BOTTELBERGHE
1112 FM 308
GRANDVIEW TX 76050-6907

MARK BURROUGHS
MAYOR, CITY OF DENTON
215 E MCKINNEY ST
DENTON TX 76201-4229

JOHN C CLARK
110 HILLCREST ST
MIDLOTHIAN TX 76065-3605

CHRISTOPHER DICK
354 MCDONNELL ST
LEWISVILLE TX 75057-4808

PAT EVANS
MAYOR, CITY OF PLANO
PO BOX 860358
PLANO TX 75086-0358

WILLIAM F GILPIN
4614 OPELOUSAS CT
GRAND PRAIRIE TX 75052-1738

SANDI GRANT
PO BOX 1170
MIDLOTHIAN TX 76065-1170

NAOMI HINDS
3571 CEMENT VALLEY RD
MIDLOTHIAN TX 76065-5311

FLOYD T HOPKINS
ARCHITECT
1458 VICKI LN
CEDAR HILL TX 75104-3010

JANET GRAY HOPKINS
SCHOOL TEACHER
1458 VICKI LN
CEDAR HILL TX 75104-3010

HARRIET IRBY
IRBY RENTAL SERVICES
3400 PEACHTREE LN
PANTEGO TX 76013-3004

JUDY KAITALA
6716 JOHNS CT
ARLINGTON TX 76016-3622

CHARLES H KILGORE
710 IDA VISTA CT
DUNCANVILLE TX 75116-2008

KATHY KINKAID
615 N GIBSON ST
WAXAHACHIE TX 75165-2435

LINDA L KOOP
COUNCILMEMBER, CITY OF DALLAS
1500 MARILLA DR # 5FN
DALLAS TX 75201-6318

JEANNIE MARSH
7600 CROWLEY RD
FORT WORTH TX 76134-4203

RAY MASSEY
PO BOX 953
MIDLOTHIAN TX 76065-0953

MARLEEN & WAYNE MELCHERT
4952 OLD FORT WORTH RD
MIDLOTHIAN TX 76065-4906

CLAUDIA MEYER
6015 FOX POINT TRL
DALLAS TX 75249-2806

GRACE & SAL MIER
1551 BOIS D ARC LN
MIDLOTHIAN TX 76065-6145

SCARLETT M MIHAILOV
3430 BAYLOR BLVD
MIDLOTHIAN TX 76065-3740

JAN MILLER
4320 ROCKWOOD TRL
ARLINGTON TX 76016-4409

MIKE MONCRIEF
MAYOR, CITY OF FORT WORTH
1000 THROCKMORTON ST
FORT WORTH TX 76102

MAURICE OSBORN
1341 W MOCKINGBIRD LN STE 700
DALLAS TX 75247-6913

JESSICA & ZOE PARDEE
3501 SHEFFIELD DR
ARLINGTON TX 76013-1131

FRANCISCO PINTO
ASH GROVE - TX LP
PO BOX 520
MIDLOTHIAN TX 76065-0500

LOUANNE RICE
115 HILL TOP CIR
BURLESON TX 76028-2353

JEFF ROBINSON
1445 ROSS AVE STE 1200
DALLAS TX 75202-2711

MERLE ROTEN
1408 N CEDAR HILL RD
CEDAR HILL TX 75104-5204

SCOTT B SMITH
1417 YUCCA ST
MIDLOTHIAN TX 76065-2038

DIANE & FRED VAN NAERSSSEN
803 HIDDEN CREEK CT
CEDAR HILL TX 75104-7805

DEBORAH WALDEN
12801 N CENTRAL EXPY STE 1200
DALLAS TX 75243-1733

KATHLEEN CHENANLT & ROBERT BC WEAVER
3510 MORGAN CREEK DR
VENUS TX 76084-4821

RON WEBER
7410 JORDAN LN
MIDLOTHIAN TX 76065-5952

EXHIBIT 1

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600125157	TXI Operations, LP	Classification: AVERAGE	Rating: 2.08
Regulated Entity:	RN100217199	TXI OPERATIONS	Classification: AVERAGE	Site Rating: 0.56
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	ED0066B	
	AIR OPERATING PERMITS	PERMIT	1077	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD007349327	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	33918	
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50316	
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	33918	
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50319001	
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50316	
	USED OIL	REGISTRATION	A85557	
	AIR NEW SOURCE PERMITS	AFS NUM	4813900009	
	AIR NEW SOURCE PERMITS	PERMIT	53424	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	ED0066B	
	AIR NEW SOURCE PERMITS	PERMIT	56271	
	AIR NEW SOURCE PERMITS	PERMIT	1360A	
	AIR NEW SOURCE PERMITS	PERMIT	49617	
	AIR NEW SOURCE PERMITS	PERMIT	50701	
	AIR NEW SOURCE PERMITS	PERMIT	50056	
	AIR NEW SOURCE PERMITS	REGISTRATION	75198	
	AIR NEW SOURCE PERMITS	PERMIT	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 ID	PSDTX632M1	
	WASTEWATER	PERMIT	WQ0004379000	
	WASTEWATER	PERMIT	TPDES0064777	
	WASTEWATER	PERMIT	TX0064777	
	STORMWATER	PERMIT	TXR05K042	
Location:	245 WARD RD, MIDLOTHIAN, TX, 76065			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	March 04, 2009			
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.			
Compliance Period:	June 24, 2003 to March 03, 2009			

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

Name: Ms. Ruth Alvarez Phone: 239 - 5220

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? _____
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

See addendum for information regarding federal actions.

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	06/24/2003	(114297)
2	07/08/2003	(35987)
3	07/10/2003	(310208)
4	07/10/2003	(310210)
5	07/10/2003	(310212)
6	07/31/2003	(145531)
7	10/16/2003	(310214)
8	10/16/2003	(310215)
9	10/16/2003	(310216)
10	10/28/2003	(252643)
11	12/12/2003	(254100)
12	01/27/2004	(310217)
13	01/27/2004	(310218)
14	01/27/2004	(310219)
15	02/19/2004	(252061)
16	03/09/2004	(256198)
17	04/07/2004	(267085)
18	04/07/2004	(267885)
19	04/27/2004	(358090)
20	04/27/2004	(358091)
21	04/27/2004	(358092)
22	07/28/2004	(310209)
23	07/28/2004	(310211)
24	07/28/2004	(310213)
25	08/09/2004	(281606)
26	08/13/2004	(274106)
27	08/18/2004	(279850)
28	10/04/2004	(283028)
29	10/29/2004	(358093)
30	10/29/2004	(358094)
31	10/29/2004	(358095)
32	01/24/2005	(385152)
33	01/24/2005	(385153)
34	01/24/2005	(385154)
35	02/09/2005	(350243)
36	04/20/2005	(376591)
37	05/02/2005	(423167)
38	05/02/2005	(423168)
39	05/02/2005	(423169)
40	06/21/2005	(371957)
41	07/31/2005	(444039)
42	07/31/2005	(444040)
43	07/31/2005	(444041)
44	08/05/2005	(397942)
45	08/10/2005	(398636)
46	08/19/2005	(398486)
47	08/25/2005	(404972)

48	08/30/2005	(407145)
49	10/19/2005	(434543)
50	10/31/2005	(474327)
51	10/31/2005	(474328)
52	10/31/2005	(474329)
53	11/09/2005	(436682)
54	11/22/2005	(436571)
55	01/27/2006	(438638)
56	04/05/2006	(460280)
57	04/24/2006	(502195)
58	04/24/2006	(502196)
59	04/24/2006	(502197)
60	05/10/2006	(465454)
61	07/24/2006	(524542)
62	07/24/2006	(524543)
63	07/24/2006	(524544)
64	08/01/2006	(488997)
65	08/22/2006	(466039)
66	08/31/2006	(510450)
67	09/27/2006	(510043)
68	10/20/2006	(549497)
69	10/20/2006	(549498)
70	10/20/2006	(549499)
71	10/31/2006	(514213)
72	11/07/2006	(497706)
73	11/07/2006	(516450)
74	11/07/2006	(517100)
75	11/07/2006	(518378)
76	12/14/2006	(533536)
77	01/18/2007	(583301)
78	01/18/2007	(583302)
79	01/18/2007	(583303)
80	02/28/2007	(537123)
81	04/03/2007	(555048)
82	04/18/2007	(583294)
83	04/18/2007	(583295)
84	04/18/2007	(583296)
85	05/08/2007	(583297)
86	06/15/2007	(583298)
87	07/10/2007	(560476)
88	07/17/2007	(583299)
89	08/08/2007	(567610)
90	08/08/2007	(567613)
91	08/09/2007	(567609)
92	08/13/2007	(583300)
93	09/17/2007	(603877)
94	10/03/2007	(593801)
95	11/16/2007	(622654)
96	11/29/2007	(609729)
97	12/05/2007	(610617)
98	12/14/2007	(622655)
99	01/17/2008	(622656)
100	01/23/2008	(613725)
101	02/19/2008	(674203)
102	02/28/2008	(636265)
103	03/19/2008	(674204)
104	04/18/2008	(674205)
105	05/14/2008	(618853)
106	05/19/2008	(692531)

107 05/21/2008 (618858)
 108 05/21/2008 (639848)
 109 06/04/2008 (641857)
 110 06/09/2008 (692532)
 111 07/07/2008 (683771)
 112 07/07/2008 (685193)
 113 07/11/2008 (692533)
 114 08/07/2008 (681644)
 115 08/14/2008 (713644)
 116 08/19/2008 (683816)
 117 08/19/2008 (689001)
 118 08/20/2008 (699805)
 119 08/21/2008 (700437)
 120 08/26/2008 (700632)
 121 09/11/2008 (713645)
 122 09/16/2008 (685635)
 123 10/17/2008 (713646)
 124 11/17/2008 (729649)
 125 12/04/2008 (699997)
 126 12/15/2008 (729650)
 127 12/17/2008 (708155)
 128 01/16/2009 (729651)

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

Date: 08/05/2003 (145531)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
 Description: Permit MAERT exceeded (for THC) during tire trial burn test.

Date: 03/08/2004 (256198) CN600125157
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TXR050000 PERMIT
 Description: Failure to collect samples for hazardous metals monitoring since permit issuance.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TXR050000 PERMIT
 Description: Failure to conduct storm water discharge sampling required for this activity since permit issuance.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TXR050000 PERMIT
 Description: Failure to conduct benchmark sampling for this activity.

Date: 07/31/2004 (358093) CN600125157
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/04/2004 (283028) CN600125157
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failed to electronically report the excess opacity event that occurred on 4/16/04.

Date: 05/17/2005 (349193) CN600125157
 Self Report? NO Classification: Moderate
 Citation: 1360A, Special Condition 2D PERMIT
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to restrict operation of the cement kilns so that no more than two of Kilns 1, 2, 3 or 4 are operated at the same time as Kiln 5.

Date: 04/21/2006 (455047) CN600125157
 Self Report? NO Classification: Moderate
 Citation: 1360A, Special Condition 7B PERMIT

30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Description: Failure to effectively prevent fugitive emissions from the northeast clinker barn door.
 Date: 01/25/2008 (613725) CN600125157
 Self Report? NO Classification: Moderate
 Citation: 1360A, Condition 8B PERMIT
 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to comply with opacity limits for Kiln #4 Exhaust Stack stated under Permit No. 1360A.
 Date: 06/05/2008 (641857) CN600125157
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 SC 18.A.2 PERMIT
 Description: Failure to record the daily calibration for the Kiln 4 NOx and SO2 analyzers for 5/18/07.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 113, SubChapter C 113.690
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT LLL 63.1350(e)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to perform visible emission observations according to Reference Method 22 as required.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 30 TAC Chapter 122, SubChapter B 122.146(5)(C)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to report a deviation for missed record of calibration on 5/18/07.
 Date: 12/08/2008 (699997) CN600125157
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(d)(1)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(i)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)
 Description: It is alleged that TXI did not immediately close a satellite accumulation container after use.

F. Environmental audits.

Notice of Intent Date: 08/19/2005 (439752)
 Disclosure Date: 08/30/2005
 Viol. Classification: Moderate
 Rqmt Prov: PERMIT HW-50316-001 Sections I.I.4 and II.D.4
 Description: Accepted a waste load for which there is no record that a required profile sheet had been previously received and reviewed by the Facility.
 Viol. Classification: Moderate
 Rqmt Prov: PERMIT HW-50316-001 Sections I.I.4 and I.C.1
 Description: Facility generated wastewater was pumped into Trailer #314 owned by TXI Transportation and parked at TXI's truck yard for 10 days. In addition, A tanker truck containing waste liquids was recieved, the contents were pumped to an empty trailer and parked in the TXI truck yard for 34 days.
 Viol. Classification: Minor
 Rqmt Prov: PERMIT HW-50316-001 Section I.I.5
 Description: New employee did not receive formal off-site training or on-site class room training described in Section 2 of the Personnel Training Plan.
 Viol. Classification: Moderate
 Rqmt Prov: PERMIT HW-50316-001 - See Description
 Description: Piping system at the Facility was changed without modifying the Permit.
 Viol. Classification: Moderate
 Rqmt Prov: PERMIT HW-50316-001 Section I.F.11
 Description: Piping system at the Facility was changed without modifying the Permit.
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)
 Rqmt Prov: PERMIT 1360A SP 1.C., 22.C.11.A.3, 2.B.
 Description: Facility employees have vented vapors from the vent back system on a number of occasions to relieve pressure increases within the Facility's tank system.

Viol. Classification: Minor
Rqmt Prov: PERMIT HW-05316-001 Section II.F.

Description: The audit identified a number of occasions on which records of repairs and maintenance are inconsistent with the Daily Inspection Forms.

Viol. Classification: Minor
Rqmt Prov: PERMIT HW-50316-001 Section II.R.

Description: Failure to maintain Facility.

Viol. Classification: Moderate
Rqmt Prov: PERMIT HW50316-001 Sections II.F and I.I.5

Description: Daily and weekly inspection sheets used in the Facility did not contain the required information found in the inspection schedule.

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