

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 54181  
BUDGET READY MIX, LLC  
RN105147870  
Docket No. 2017-0427-WQ-E

**Order Type:**

Agreed Order

**Media:**

WQ

**Small Business:**

N/A

**Location(s) Where Violation(s) Occurred:**

14915 Market Street Road, Houston, Harris County

**Type of Operation:**

ready-mixed concrete manufacturing

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** April 6, 2018

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$9,900

**Total Paid to General Revenue:** \$275

**Total Due to General Revenue:** \$9,625

Payment Plan: 35 payments of \$275 each

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** December 29, 2017

**Date(s) of NOV(s):** June 30, 2016; July 31, 2016

**Date(s) of NOE(s):** February 3, 2017

**Violation Information**

1. Failed to timely submit discharge monitoring reports ("DMRs") at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111424, Part IV. Standard Permit Conditions No. 7.f.].
2. Failed to comply with permitted effluent limitations at Outfall 001 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111424, Part III. Permit Requirements No. A.1].
3. Failed to comply with permitted effluent limitations at Outfall 002 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111424, Part III. Permit Requirements No. A.1].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days, update operational guidance and conduct employee training to ensure the timely submittal of DMRs and all required sampling is conducted at the intervals specified in TPDES General Permit No. TXG111424.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 130 days, submit written certification to demonstrate compliance with the permitted effluent limitations of TPDES General Permit No. TXG111424, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

**Litigation Information**

**Date Petition(s) Filed:** December 5, 2017

**Date Green Card(s) Signed:** December 12, 2017

**Settlement Date:** February 27, 2018

**Contact Information**

**TCEQ Attorneys:** Adam Taylor, Litigation Division, (512) 239-3400  
Garrett Arthur, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Division Agenda Coordinator:** Janice Hernandez, (512) 239-2575

**TCEQ Enforcement Coordinator:** James Boyle, Enforcement Division, (512) 239-2527

**TCEQ Regional Contact:** Valerie Lara, Houston Regional Office, (713) 767-3500

**Respondent Contact:** Pete Sanchez, President, BUDGET READY MIX, LLC, 14915 Market Street Road, Houston, Texas 77015

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	6-Feb-2017	<b>Screening</b>	16-Mar-2017	<b>EPA Due</b>	
	<b>PCW</b>	20-Mar-2017				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	BUDGET READY MIX, LLC
<b>Reg. Ent. Ref. No.</b>	RN105147870
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	54181	<b>No. of Violations</b>	3
<b>Docket No.</b>	2017-0427-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	James Boyle
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$9,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>10.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$900</b>
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<b>Notes</b>	Enhancement for two months of self-reported effluent violations.
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<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$898	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$8,400	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$9,900</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$9,900</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$9,900</b>
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<b>DEFERRAL</b>	Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$9,900</b>
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Screening Date 16-Mar-2017

Docket No. 2017-0427-WQ-E

PCW

Respondent BUDGET READY MIX, LLC

Policy Revision 4 (April 2014)

Case ID No. 54181

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105147870

Media [Statute] Water Quality

Enf. Coordinator James Boyle

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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> )	2	10%
	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> )	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%
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) 10%

#### >> 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 two months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 10%

Screening Date 16-Mar-2017

Docket No. 2017-0427-WQ-E

PCW

Respondent BUDGET READY MIX, LLC

Policy Revision 4 (April 2014)

Case ID No. 54181

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105147870

Media [Statute] Water Quality

Enf. Coordinator James Boyle

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17), and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111424, Part IV. Standard Permit Conditions No. 7.f.

Violation Description Failed to timely submit discharge monitoring reports ("DMRs") at the intervals specified in the permit. Specifically, the monthly DMRs for Outfall 001 and Outfall 002 for the monitoring periods of January, March, and May 2016 were not submitted by the 20th day of the following month.

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	1.0%

Matrix Notes

30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 6 354 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,500

Six single events are recommended (one event per delinquent DMR, for each monitoring period for Outfall 001 and Outfall 002).

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,650

This violation Final Assessed Penalty (adjusted for limits) \$1,650

## Economic Benefit Worksheet

**Respondent** BUDGET READY MIX, LLC  
**Case ID No.** 54181  
**Reg. Ent. Reference No.** RN105147870  
**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
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### 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	29-Dec-2016	13-Nov-2017	0.87	\$11	n/a	\$11
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$150	20-Feb-2016	17-Feb-2017	0.99	\$7	n/a	\$7

**Notes for DELAYED costs**

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished, including the timely submittal of DMRs and all required sampling is conducted properly and at the intervals required. Date required is the investigation date. The final date is the anticipated date of compliance. Estimated cost to submit the delinquent DMRs (\$25 per DMR). Date required is the date that the first delinquent DMR was due. The final date is the date of the DMRs were submitted.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$400

**TOTAL** \$18

**Screening Date** 16-Mar-2017  
**Respondent** BUDGET READY MIX, LLC  
**Case ID No.** 54181  
**Reg. Ent. Reference No.** RN105147870  
**Media [Statute]** Water Quality  
**Enf. Coordinator** James Boyle

**Docket No.** 2017-0427-WQ-E

**PCW**

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

**Violation Number**

**Rule Cite(s)**  
 Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES General Permit No. TXG111424, Part III. Permit Requirements No. A.1.

**Violation Description**  
 Failed to comply with permitted effluent limitations at Outfall 001 as shown in the effluent violation table.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

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

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Three quarterly events are recommended for the quarters containing the months of November 2015 and January, March, and July 2016.

**Good Faith Efforts to Comply**

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** BUDGET READY MIX, LLC  
**Case ID No.** 54181  
**Reg. Ent. Reference No.** RN105147870  
**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
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$1,000	30-Nov-2015	2-Jan-2018	2.09	\$7	\$140	\$147
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	\$1,000	30-Nov-2015	2-Jan-2018	2.09	\$105	n/a	\$105
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$6,000	30-Nov-2015	2-Jan-2018	2.09	\$628	n/a	\$628

**Notes for DELAYED costs**

Estimated engineering and construction cost to install silt fences and other structural controls to mitigate commingled stormwater runoff. Date required is the initial date of noncompliance and the final date is the anticipated date of compliance. Estimated remediation and disposal cost to conduct regular facility cleaning, specifically near the Outfalls to mitigate commingled stormwater runoff. Date required is the initial date of noncompliance and the final date is the anticipated date of compliance. Cost to retain environmental counsel to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance and the final date is the anticipated 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 \$8,000

**TOTAL** \$879



**Screening Date** 16-Mar-2017  
**Respondent** BUDGET READY MIX, LLC  
**Case ID No.** 54181  
**Reg. Ent. Reference No.** RN105147870  
**Media [Statute]** Water Quality  
**Enf. Coordinator** James Boyle

**Docket No.** 2017-0427-WQ-E

**PCW**

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

**Violation Number** 3

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES General Permit No. TXG111424, Part III. Permit Requirements No. A.1.

**Violation Description** Failed to comply with permitted effluent limitations at Outfall 002 as shown in the effluent violation table.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	5.0%
	Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

**Matrix Notes** Human health or the environment has been exposed to insignificant amounts of pollutants that do 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 3      92 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

Three quarterly events are recommended for the quarters containing the months of January, June and July 2016.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

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

**Violation Subtotal** \$3,750

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$4,125

**This violation Final Assessed Penalty (adjusted for limits)** \$4,125

# Economic Benefit Worksheet

**Respondent** BUDGET READY MIX, LLC  
**Case ID No.** 54181  
**Reg. Ent. Reference No.** RN105147870  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### 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. 3.

### 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

**TOTAL**

BUDGET READY MIX, LLC  
Docket No. 2017-0427-WQ-E  
TPDES General Permit No. TXG111424

Effluent Violation Table

Reporting Period	Outfall oo1		Outfall oo2	
	pH	Total Suspended Solids	pH	Total Suspended Solids
	Daily Max.	Daily Max. Conc.	Daily Max.	Daily Max. Conc.
	Limit = 9 (SU)	Limit = 65 mg/L	Limit = 9 (SU)	Limit = 65 mg/L
November 2015	c	65.6	c	c
January 2016	c	126	c	164
March 2016	9.26	321	c	c
June 2016	c	c	12.1	102
July 2016	c	189	c	129

Conc. = concentration  
Max. = maximum  
SU = standard units

mg/L = milligrams per liter  
c = compliant

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# TCEQ Compliance History Report

Compliance History Report for CN604490086, RN105147870, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

**Customer, Respondent, or Owner/Operator:** CN604490086, BUDGET READY MIX, LLC **Classification:** SATISFACTORY **Rating:** 0.57

**Regulated Entity:** RN105147870, PLANT 1 **Classification:** SATISFACTORY **Rating:** 0.57

**Complexity Points:** 4 **Repeat Violator:** NO

**CH Group:** 10 - Cement and Concrete Product Manufacturing

**Location:** 14915 MARKET STREET ROAD IN HOUSTON, HARRIS COUNTY, TEXAS 77015

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**WASTEWATER PERMIT TXG112034 (FORMERLY PERMIT TXG111424)**

**Compliance History Period:** September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

**Date Compliance History Report Prepared:** May 09, 2017

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 09, 2012 to May 09, 2017

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

**Name:** James Boyle

**Phone:** (512) 239-2527

**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

**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	February 05, 2014	(1237333)	Item 15	July 16, 2015	(1280063)
Item 2	February 19, 2014	(1237325)	Item 16	August 20, 2015	(1285999)
Item 3	June 20, 2014	(1237327)	Item 17	September 24, 2015	(1293068)
Item 4	July 29, 2014	(1237328)	Item 18	October 20, 2015	(1299232)
Item 5	August 20, 2014	(1237329)	Item 19	November 17, 2015	(1304705)
Item 6	October 20, 2014	(1237330)	Item 20	January 18, 2016	(1318598)
Item 7	November 20, 2014	(1237331)	Item 21	March 18, 2016	(1334596)
Item 8	December 18, 2014	(1237332)	Item 22	May 19, 2016	(1348511)
Item 9	January 26, 2015	(1237334)	Item 23	September 14, 2016	(1375053)
Item 10	March 04, 2015	(1245128)	Item 24	October 20, 2016	(1381213)
Item 11	March 20, 2015	(1251486)	Item 25	December 19, 2016	(1393297)
Item 12	May 05, 2015	(1258416)	Item 26	January 20, 2017	(1399965)
Item 13	May 12, 2015	(1265188)	Item 27	February 16, 2017	(1399963)
Item 14	June 17, 2015	(1272288)	Item 28	February 23, 2017	(1406819)



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BUDGET READY MIX, LLC;  
RN105147870**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER**

**DOCKET NO. 2017-0427-WQ-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BUDGET READY MIX, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a ready-mixed concrete manufacturing located at 14915 Market Street Road in Houston, Harris County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of nine thousand nine hundred dollars (\$9,900.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two hundred seventy-five dollars (\$275.00) of the penalty. The remaining amount of nine thousand six hundred twenty-five dollars (\$9,625.00) shall be paid in thirty-five (35) monthly payments of two hundred seventy-five dollars (\$275.00) 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 the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any

remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.

## **II. ALLEGATIONS**

1. During a record review conducted on December 29, 2016, TCEQ Staff documented that Respondent:
  - a. Failed to timely submit discharge monitoring reports ("DMRs") at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111424, Part IV. Standard Permit Conditions No. 7.f. Specifically, the monthly DMRs for Outfall 001 and Outfall 002 for the monitoring periods of January, March, and May 2016 were not submitted by the 20th day of the following month;
  - b. Failed to comply with permitted effluent limitations at Outfall 001 as shown in the Effluent Violation Table, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111424, Part III. Permit Requirements No. A.1; and
  - c. Failed to comply with permitted effluent limitations at Outfall 002 as shown in the Effluent Violation Table, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111424, Part III. Permit Requirements No. A.1.



Effluent Violation Table				
Reporting Period	Outfall 001		Outfall 002	
	pH	Total Suspended Solids	pH	Total Suspended Solids
	Daily Max.	Daily Max. Conc.	Daily Max.	Daily Max. Conc.
	Limit = 9 (SU)	Limit = 65 mg/L	Limit = 9 (SU)	Limit = 65 mg/L
November 2015	c	65.6	c	c
January 2016	c	126	c	164
March 2016	9.26	321	c	c
June 2016	c	c	12.1	102
July 2016	c	189	c	129
Legend				
Conc. = concentration      mg/L = milligrams per liter      SU = standard units Max. = maximum              c = compliant				

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: BUDGET READY MIX, LLC, Docket No. 2017-0427-WQ-E" to:

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

2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, update operational guidance and conduct employee training to ensure the timely submittal of

DMRs and all required sampling is conducted at the intervals specified in TPDES General Permit No. TXG111424.

- b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.d, to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 130 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.d, to demonstrate compliance with the permitted effluent limitations of TPDES General Permit No. TXG111424, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
9. 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

Marsifigande  
\_\_\_\_\_  
For the Executive Director

May 7, 2018  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Pete Sanchez  
\_\_\_\_\_  
Signature - Pete Sanchez, President  
BUDGET READY MIX, LLC  
14915 Market Street Road  
Houston, Texas 77015

2/27/18  
\_\_\_\_\_  
Date

If mailing address has changed, please check this box and provide the new address below:

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