

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-0136-AIR-E TCEQ ID: RN102568516 CASE NO.: 32461**

**RESPONDENT NAME: Amarillo Road Company, L.P.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Asphalt Plant 2, one mile south of the intersection of U.S. Highway 54 and Farm Road 767, Romero, Hartley County</p> <p><b>TYPE OF OPERATION:</b> Portable hot mix asphalt plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044, Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Robert Lane, Vice President, Amarillo Road Company, L.P., P.O. Box 32075, Amarillo, Texas 79120  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 6, 2006</p> <p><b>Date of NOE Relating to this Case:</b> January 5, 2007 (NOB)</p> <p><b>Background Facts:</b> This was a routine investigation. Eight violations were documented</p> <p><b>AIR</b></p> <p>1) Failed to conduct performance tests no later than 180 days after the initial startup of the hot mix asphalt plant or satisfy the criteria for a waiver from testing [30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 60.8(a), Permit No. 45063, Special Conditions ("SC") 1 and 15A, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to comply with the generator fuel sulfur content limit of 0.3% by weight. A fuel analysis test conducted on October 13, 2006 indicated that the fuel contained 0.452% sulfur [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 3A, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failed to use either pipeline sweet natural gas or first run No. 2 or No. 4 fuel oil in the dryer and failed to obtain written approval from TCEQ before using No. 6 fuel oil in the dryer [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 3B, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>4) Failed to submit records containing the information and data sufficient to demonstrate compliance with the permitted emission rates from the Caterpillar 3412C generator [30 TEX. ADMIN. CODE §</p>	<p><b>Total Assessed:</b> \$15,750</p> <p><b>Total Deferred:</b> \$3,150  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$12,600</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On November 7, 2006, ceased operation of the Plant at the Site; and</p> <p>b. On January 31, 2007, provided TCEQ with the Plant operating records including hot mix asphalt temperatures for the time period February 1, 2006 through November 7, 2006.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a. Before resuming operation of the Plant at the Site or another location complete performance testing at actual representative operating conditions to be determined in the pre-test meeting with TCEQ or obtain a waiver from testing;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit data/records in the format required by Permit No. 45063, Special Condition 4 to show the emission rates from the Caterpillar 3412C engine;</p> <p>c. Within 30 days after the effective date of this Agreed Order, or within 30 days after the startup of the Plant, whichever is later, either;</p> <p>i. Submit written certification that the Plant is being operated in accordance with all special conditions of Permit No. 45063; or</p> <p>ii. Submit an administratively complete application to amend Permit No. 45063 to authorize actual operating conditions not currently authorized by the permit.</p> <p>d. If a permit amendment is submitted in accordance with Ordering Provision No. 2.c.ii., then:</p> <p>i. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning</p>

<p>116.115(b)(2)(E) and 116.115(c), Permit No. 45063, SC 4, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>5) Failed to maintain the maximum mix temperature of the asphalt concrete at or below 325 degrees Fahrenheit ("°F") [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 7A, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>6) Failed to mark all stationary equipment authorized by the permit with the assigned account identification number [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 10, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>7) Failed to perform stack sampling analysis for particulate matter and volatile organic compounds and other testing as required when the asphalt concrete mix temperature exceeded 325°F [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 17, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>8) Failed to keep records for a rolling two-year period and provide records containing the information and data sufficient to demonstrate compliance with the permit. Specifically, with the use of the on-site computer, a partial set of records were available for viewing during the investigation, but the Respondent failed to provide the additional requested operational data sufficient to demonstrate compliance with the permit [30 TEX. ADMIN. CODE § 116.115(b)(2)(E) and 116.115(c), Permit No. 45063, SC 21, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		<p>the Permit No. 45063 amendment application; and</p> <p>ii. Within 150 days after submitting the permit amendment application, submit written certification that either authorization to construct and operate the Plant at actual operating conditions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained; and</p> <p>e. The written certification required by Ordering Provision Nos. 2.c.i. and 2.d.ii. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>
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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

<b>DATES</b>	<b>Assigned</b>	8-Jan-2007	<b>Screening</b>	30-Jan-2007	<b>EPA Due</b>	
	<b>PCW</b>	1-Feb-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Amarillo Road Company, L.P.		
<b>Reg. Ent. Ref. No.</b>	RN102568516		
<b>Facility/Site Region</b>	3-Abilene	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	32461	<b>No. of Violations</b>	8
<b>Docket No.</b>	2007-0136-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air Quality	<b>Enf. Coordinator</b>	Miriam Hall
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 5
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7**

**Notes**

**Culpability**  **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

**Notes**

**50% Enhancement\*** **Subtotal 6**

Total EB Amounts	\$21,518
Approx. Cost of Compliance	\$27,200

*\*Capped at the Total EB \$ Amount*

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**PAYABLE PENALTY**

Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No.			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent is an average performer.

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

Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1), 116.115(c), 40 CFR § 60.8(a), Permit No. 45063, Special Conditions ("SC") 1 and 15A, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct performance tests no later than 180 days after the initial startup of the hot mix asphalt plant or satisfy the criteria for a waiver from testing.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could have been exposed to significant amounts of pollutants which would not have exceeded levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

32 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,385

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent** Amarillo Road Company, L.P.

**Case ID No.** 32461

**Reg. Ent. Reference No.** RN102568516

**Media** Air Quality

**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$8,000	15-Jan-2002	31-Dec-2007	6.0	\$2,385	n/a	\$2,385
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of a performance test from date required to projected compliance date.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

<b>Approx. Cost of Compliance</b>	\$8,000	<b>TOTAL</b>	\$2,385
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Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 45063, SC 3A, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the generator fuel sulfur content limit of 0.3% by weight. A fuel analysis test conducted on October 13, 2006 indicated that the fuel contained 0.452% sulfur.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which would not have exceeded levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

25 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from lab analysis date (October 13, 2006) to last date the plant was operated at this location in Hartley County (November 7, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,000

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent:** Amarillo Road Company, L.P.

**Case ID No.:** 32461

**Reg. Ent. Reference No.:** RN102568516

**Media Air Quality**

**Violation No. 2**

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$5,000	13-Oct-2006	7-Nov-2006	0.0	\$0	\$5,000	\$5,000
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of more oversight from date fuel found to be noncompliant to last date at this location.

Approx. Cost of Compliance

\$5,000

TOTAL

\$5,000

Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 45063, SC 3B, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to use either pipeline sweet natural gas or first run No. 2 or No. 4 fuel oil in the dryer and failed to obtain written approval from TCEQ before using No. 6 fuel oil in the dryer.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which would not have exceeded levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

32 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from investigation date (October 6, 2006) to last date operated at this location (November 7, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent** Amarillo Road Company, L.P.

**Case ID No.** 32461

**Reg. Ent. Reference No.** RN102568516

**Media Air Quality**

**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of obtaining a permit amendment to burn No. 6 fuel oil is included in Violation No. 5.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(E), 116.115(c), Permit No. 45063, SC 4, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit records containing the information and data sufficient to demonstrate compliance with the permitted emission rates from the Caterpillar 3412C generator.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

116 Number of violation days

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

Violation Base Penalty \$1,000

One single event was documented during the investigation on October 6, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent** Amarillo Road Company, L.P.  
**Case ID No.** 32461  
**Reg. Ent. Reference No.** RN102568516  
**Media Air Quality**  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	6-Oct-2006	30-Jun-2007	0.7	\$18	n/a	\$18
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**      The estimated cost of gathering and submitting records from date of inspection to projected compliance date.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$500	<b>TOTAL</b>	\$18
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Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 45063, SC 7A, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the maximum mix temperature of the asphalt concrete at or below 325 degrees Fahrenheit ("°F").

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which would not have exceeded levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

116 Number of violation days

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

Violation Base Penalty \$4,000

Four quarterly events were documented from February 1 through November 7, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,421

Violation Final Penalty Total \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

## Economic Benefit Worksheet

**Respondent:** Amarillo Road Company, L.P.  
**Case ID No.:** 32461  
**Reg. Ent. Reference No.:** RN102568516  
**Media:** Air Quality  
**Violation No.:** 5

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	1-Feb-2006	7-Nov-2006	1.7	\$421	\$5,000	\$5,421

Notes for AVOIDED costs

The estimated cost of obtaining a permit amendment to increase the maximum temperature of the asphalt mix among other changes. The date required is the date of the first documented violation and final date is the last date of operation.

Approx. Cost of Compliance

\$5,000

TOTAL

\$5,421

Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 45063, SC 10, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to mark all stationary equipment authorized by the permit with the assigned account identification number.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

116 Number of violation days

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

Violation Base Penalty \$1,000

One single event was documented during the investigation on October 6, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent:** Amarillo Road Company, L.P.  
**Case ID No.:** 32461  
**Reg. Ent. Reference No.:** RN102568516  
**Media Air Quality**  
**Violation No.:** 6

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	6-Oct-2006	30-Jun-2007	0.7	\$18	n/a	\$18

Notes for DELAYED costs

The estimated cost of stenciling account no. on each unit/piece of equipment from inspection date to projected compliance date.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$18

Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Permit No. 45063, SC 17, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to perform stack sampling analysis for particulate matter and volatile organic compounds and other testing as required when the asphalt concrete mix temperature exceeded 325°F.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could have been exposed to significant amounts of pollutants which would not have exceeded levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

1

116

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event was documented during the investigation on October 6, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,673

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent** Amarillo Road Company, L.P.  
**Case ID No.** 32461  
**Reg. Ent. Reference No.** RN102568516  
**Media** Air Quality  
**Violation No.** 7

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$8,000	1-Feb-2006	7-Nov-2006	1.7	\$673	\$8,000	\$8,673

Notes for AVOIDED costs

The estimated cost of performing a stack test from first documented date of exceeding 325°F to the last date of operation.

Approx. Cost of Compliance

\$8,000

TOTAL

\$8,673

Screening Date 30-Jan-2007

Docket No. 2007-0136-AIR-E

PCW

Respondent Amarillo Road Company, L.P.

Policy Revision 2 (September 2002)

Case ID No. 32461

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102568516

Media [Statute] Air Quality

Enf. Coordinator Miriam Hall

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(E), 116.115(c), Permit No. 45063, SC 21, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to keep records for a rolling two-year period and provide records containing the information and data sufficient to demonstrate compliance with the permit. Specifically with the use of the on-site computer, a partial set of records were available for viewing during the investigation, but the Respondent failed to provide the additional requested operational data sufficient to demonstrate compliance with the permit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification				Percent
	Major	Moderate	Minor		
Respondent met about 50% of the rule by keeping a one-year rolling average of most of the required data.		x			5%

Adjustment \$9,500

\$500

Violation Events

	1	116	Number of violation days
mark only one with an x	daily		Violation Base Penalty \$500
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

One single event was documented during the investigation on October 6, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$750

This violation Final Assessed Penalty (adjusted for limits) \$750

## Economic Benefit Worksheet

**Respondent** Amarillo Road Company, L.P.  
**Case ID No.** 32461  
**Reg. Ent. Reference No.** RN102568516  
**Media Air Quality**  
**Violation No.** 8

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$200	6-Oct-2006	31-Jan-2007	0.3	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of printing and keeping hard copies of the available data.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$3





TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AMARILLO ROAD COMPANY, L.P.  
RN102568516**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0136-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Amarillo Road Company, L.P. ("ARC") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and ARC appear before the Commission and together stipulate that:

1. ARC owns and operates a road construction company at 3300 Pullman Road in Amarillo, Randall County, Texas. ARC operated a portable hot mix asphalt plant ("Plant") at one mile south of the intersection of U.S. Highway 54 and Farm Road 767 in Romero, Hartley County, Texas (the "Site").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and ARC agree that the Commission has jurisdiction to enter this Agreed Order, and that ARC is subject to the Commission's jurisdiction.
4. ARC received notice of the violations alleged in Section II ("Allegations") on or about January 10, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by ARC of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Seven Hundred Fifty Dollars (\$15,750) is assessed by the Commission in settlement of the violations alleged in Section II



- ("Allegations"). ARC has paid Twelve Thousand Six Hundred Dollars (\$12,600) of the administrative penalty and Three Thousand One Hundred Fifty Dollars (\$3,150) is deferred contingent upon ARC's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If ARC fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require ARC to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director of the TCEQ and ARC have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  9. The Executive Director recognizes that ARC has implemented the following corrective measures at the Plant:
    - a. On November 7, 2006, ceased operation of the Plant at the Site; and
    - b. On January 31, 2007, provided TCEQ with the Plant operating records including hot mix asphalt temperatures for the time period February 1, 2006 through November 7, 2006.
  10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that ARC has not complied with one or more of the terms or conditions in this Agreed Order.
  11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, ARC is alleged to have:

1. Failed to conduct performance tests no later than 180 days after the initial startup of the hot mix asphalt plant or satisfy the criteria for a waiver from testing, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), 40 CODE OF FEDERAL REGULATIONS § 60.8(a), Permit No. 45063, Special Conditions ("SC") 1 and 15A, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006.
2. Failed to comply with the generator fuel sulfur content limit of 0.3% by weight, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 3A, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006. A fuel analysis test conducted on October 13, 2006 indicated that the fuel contained 0.452% sulfur.



3. Failed to use either pipeline sweet natural gas or first run No. 2 or No. 4 fuel oil in the dryer and failed to obtain written approval from TCEQ before using No. 6 fuel oil in the dryer, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 3B, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006.
4. Failed to submit records containing the information and data sufficient to demonstrate compliance with the permitted emission rates from the Caterpillar 3412C generator, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(E) and 116.115(c), Permit No. 45063, SC 4, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006.
5. Failed to maintain the maximum mix temperature of the asphalt concrete at or below 325 degrees Fahrenheit ("°F"), in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 7A, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006.
6. Failed to mark all stationary equipment authorized by the permit with the assigned account identification number, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 10, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006.
7. Failed to perform stack sampling analysis for particulate matter and volatile organic compounds and other testing as required when the asphalt concrete mix temperature exceeded 325°F, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Permit No. 45063, SC 17, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006.
8. Failed to keep records for a rolling two-year period and provide records containing the information and data sufficient to demonstrate compliance with the permit, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(E) and 116.115(c), Permit No. 45063, SC 21, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 6, 2006. Specifically, with the use of the on-site computer, a partial set of records were available for viewing during the investigation, but ARC failed to provide the additional requested operational data sufficient to demonstrate compliance with the permit.

### III. DENIALS

ARC generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS



1. It is, therefore, ordered by the TCEQ that ARC pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and ARC'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: Amarillo Road Company, L.P., Docket No. 2007-0136-AIR-E" to:

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

2. It is further ordered that ARC shall undertake the following technical requirements:
  - a. Before resuming operation of the Plant at the Site or another location complete performance testing at actual representative operating conditions to be determined in the pre-test meeting with TCEQ or obtain a waiver from testing;
  - b. Within 30 days after the effective date of this Agreed Order, submit data/records in the format required by Permit No. 45063, Special Condition 4 to show the emission rates from the Caterpillar 3412C engine to the addresses listed in Ordering Provision 2.e.;
  - c. Within 30 days after the effective date of this Agreed Order, or within 30 days after the startup of the Plant, whichever is later, either:
    - i. Submit written certification that the Plant is being operated in accordance with all special conditions of Permit No. 45063 as specified in Ordering Provision 2.e.; or
    - ii. Submit an administratively complete application to amend Permit No. 45063 to authorize actual operating conditions not currently authorized by the permit to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- d. If a permit amendment is submitted in accordance with Ordering Provision No. 2.c.ii., then:
  - i. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning the Permit No. 45063 amendment application; and
  - ii. Within 150 days after submitting the permit amendment application, submit written certification that either authorization to construct and operate the Plant at actual operating conditions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained; and



- e. The written certification required by Ordering Provision Nos. 2.c.i. and 2.d.ii. shall be as described below and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the Permit 45063 and this order. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon ARC. ARC is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If ARC 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, ARC's failure to comply is not a violation of this Agreed Order. ARC shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. ARC shall notify the Executive Director within seven days after ARC 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 ARC shall be made in writing to the Executive Director. Extensions are not effective until ARC receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.



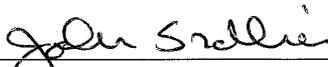
6. This Agreed Order, issued by the Commission, shall not be admissible against ARC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to ARC, or three days after the date on which the Commission mails notice of the Order to ARC, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

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

8/20/2007  
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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

5/3/07  
Date

ROBERT LANE  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Amarillo Road Company, L.P.

VP  
\_\_\_\_\_  
Title

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

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