EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1666-AIR-E **TCEQ ID:** RN102418563 **CASE NO.:** 31202

RESPONDENT NAME: Trinity Industries, Inc.

ORDER TYPE:

X.. 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Trinity Industries Plant 25, 2850 Peden Road, Saginaw, Tarrant County

TYPE OF OPERATION: Railcar fabricating and repairing plant

SMALL BUSINESS: ___ Yes _X_ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Enforcement Division, Enforcement Section III, MC 149, (512) 239-6162; Mr. Steven Lopez, Enforcement Division, Enforcement Section I, (512) 239-1896

Respondent: Mr. David West, Regional Environmental Manager, Trinity Industries, Inc., 2525 North Stemmons Freeway, Dallas, Texas 75207
Mr. S. Theis Rice, V.P. & Chief Legal Officer, Trinity Industries, Inc., 2525 North Stemmons Freeway, Dallas, Texas 75207

Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** July 25, 2006 **Date of NOE Relating to this Case:** August 25, 2006 (NOE) **Background Facts:** This was a routine scheduled investigation for compliance with the air program. Two significant program violations were observed. **AIR** 1) Failure to submit a deviation report. Specifically, Trinity failed to submit the report for the May 21, 2005 to November 21, 2005 time period [30 TEX. ADMIN. CODE § 122.145(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failure to comply with permitted limits. Specifically, on September 15, 2005, Trinity used a coating that contained 3.77 pounds per gallon ("lbs/gal") volatile organic compound ("VOC") content. The maximum VOC content as defined in Air permit No. 7318A is 3.5 lbs/gal [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 7318A, Special Condition No. 4, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $3,500 **Total Deferred:** $700 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,800 **Site Compliance History Classification:** X High __Avg. __Poor **Person Compliance History Classification:** __High X Avg. __Poor **Major Source:** X Yes __ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions** The Order will require the Respondent to: a) Within 15 days after the effective date of this Agreed Order, submit the deviation report for the May 21, 2005 to November 21, 2005 reporting period; b) Within 30 days after the effective date of this Agreed Order, provide additional personnel training and implement improvements to design and operation in order to address the permit exceedance on September 15, 2005; and c) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provisions a. and b.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision April 25, 2006*

DATES					
Assigned	28-Aug-2006				
PCW	15-Sep-2006	Screening	14-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Trinity Industries, Inc.		
Reg. Ent. Ref. No.	RN102418563		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	31202	No. of Violations	2
Docket No.	2006-1666-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Bryan Elliott
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: No change due to average performer classification.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The Respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$17
Approx. Cost of Compliance	$750

SUM OF SUBTOTALS 1-7 Final Subtotal $3,500

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $3,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $3,500

DEFERRAL 20% Reduction Adjustment -$700

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $2,800

Screening Date	14-Sep-2006	**Docket No.** 2006-1666-AIR-E	**PCW**
Respondent	Trinity Industries, Inc.		*Policy Revision 2 (September 2002)*
Case ID No.	31202		*PCW Revision April 25, 2006*
Reg. Ent. Reference No.	RN102418563		
Media [Statute]	Air Quality		
Enf. Coordinator	Bryan Elliott		

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 judgements 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*	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: No change due to average performer classification.

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

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	14-Sep-2006
Docket No.	2006-1666-AIR-E
Respondent	Trinity Industries, Inc.
Case ID No.	31202
Reg. Ent. Reference No.	RN102418563
Media [Statute]	Air Quality
Enf. Coordinator	Bryan Elliott

Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 122.145(2)
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)
Violation Description	Failed to submit a deviation report. Specifically, the Respondent failed to submit the report for the May 21, 2005 to November 21, 2005 time period.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

1 Number of violation days

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $17

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent: Trinity Industries, Inc.
Case ID No.: 31202
Reg. Ent. Reference No.: RN102418563
Media [Statute]: Air Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$250	21-Dec-2005	20-Apr-2007	1.3	$17	n/a	$17
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	Estimated cost to prepare and submit a deviation report. Date required is based on the due date for the deviation report. Final date is based on the date of prospective compliance.						
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: $250

TOTAL: $17

PCW

Policy Revision 2 (September 2002)
PCW Revision April 25, 2006

Screening Date	14-Sep-2006
Docket No.	2006-1666-AIR-E
Respondent	Trinity Industries, Inc.
Case ID No.	31202
Reg. Ent. Reference No.	RN102418563
Media [Statute]	Air Quality
Enf. Coordinator	Bryan Elliott

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 116.115(c) and Air Permit No. 7318A, Special Condition No. 4

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with permitted limits. Specifically, as documented during an investigation conducted on July 25, 2006, the Respondent, on September 15, 2005 used a coating that contained 3.77 pounds per gallon ("lbs/gal") volatile organic compound ("VOC") content. The maximum VOC content allowed, as defined in Air permit No. 7318A, is 3.5 lbs/gal.

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

Matrix Notes: Human health or the environment could have been exposed to insignificant emissions which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 1

1 Number of violation days

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent: Trinity Industries, Inc.
Case ID No.: 31202
Reg. Ent. Reference No.: RN102418563
Media [Statute]: Air Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	15-Sep-2005	20-Apr-2007	0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost of using the allowable permitted VOC content coating. Date Required is the date of the violation. Final Date is the date of prospective compliance.						
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: $0

Compliance History

Customer/Respondent/Owner-Operator:	CN600127807	Trinity Industries, Inc.	Classification: Average	Rating: 3.07
Regulated Entity:	RN102418563	TRINITY INDUSTRIES PLANT 25	Classification: High	Site Rating: 0.00

ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	7318A
	AIR NEW SOURCE PERMITS	PERMIT	14512A
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TA0285V
	AIR NEW SOURCE PERMITS	AFS NUM	0151
	AIR NEW SOURCE PERMITS	REGISTRATION	75606
	AIR OPERATING PERMITS	PERMIT	1650

Location: 2850 PEDEN RD, SAGINAW, TX, 76179 Rating Date: 9/1/2006

TCEQ Region: REGION 04 - DFW METROPLEX Repeat Violator: NO

Date Compliance History Prepared: September 14, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 14, 2001 to September 14, 2006

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

Name: Bryan Elliott Phone: 239-6162

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)? N/A
5. When did the change(s) in ownership occur? N/A

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

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 08/02/2005 (401522)

2 08/25/2006 (509337)
3 08/25/2003 (146756)
4 08/30/2004 (290216)

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
TRINITY INDUSTRIES, INC.	§	
RN102418563	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1666-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 Trinity Industries, Inc. ("Trinity") 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 Trinity appear before the Commission and together stipulate that:

1. Trinity owns and operates a railcar fabricating and repairing plant at 2850 Peden Road in Saginaw, Tarrant County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Trinity agree that the Commission has jurisdiction to enter this Agreed Order, and that Trinity is subject to the Commission's jurisdiction.

4. Trinity received notice of the violations alleged in Section II ("Allegations") on or about August 30, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Trinity of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Five Hundred Dollars ($3,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Trinity has paid Two Thousand Eight Hundred Dollars ($2,800) of the administrative penalty and Seven Hundred Dollars ($700) is deferred contingent upon Trinity'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 Trinity fails to timely and satisfactorily comply

with all requirements of this Agreed Order, the Executive Director may require Trinity 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 Trinity have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Trinity has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to submit a deviation report, in violation of 30 TEX. ADMIN. CODE § 122.145(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 25, 2006. Specifically, Trinity failed to submit the report for the May 21, 2005 to November 21, 2005 time period.

2. Failed to comply with permitted limits, in violation of 30 TEX. ADMIN. CODE § 116.115(c) and Air Permit No. 7318A, Special Condition No. 4 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 25, 2006. Specifically, on September 15, 2005, Trinity used a coating that contained 3.77 pounds per gallon ("lbs/gal") volatile organic compound ("VOC") content. The maximum VOC content allowed, as defined in Air permit No. 7318A is, 3.5 lbs/gal.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Trinity pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Trinity'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: Trinity Industries, Inc., Docket No. 2006-1666-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 Trinity shall undertake the following technical requirements:

   a. Within 15 days after the effective date of this Agreed Order, submit the deviation report for the May 21, 2005 to November 21, 2005 reporting period;

   b. Within 30 days after the effective date of this Agreed Order, provide additional personnel training and implement improvements to design and operation in order to address the permit exceedance on September 15, 2005; and

   c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

   The certification required by Ordering Provision No. 2.c. 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:

Manager, Air Section
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Trinity. Trinity 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 Trinity 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, Trinity's failure to comply is not a violation of this Agreed Order. Trinity shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Trinity shall notify the Executive Director within seven days after Trinity 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 Trinity shall be made in writing to the Executive Director. Extensions are not effective until Trinity 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 Trinity 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 Trinity, or three days after the date on which the Commission mails notice of the Order to Trinity, 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

3/7/07
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

12/07/06
Date

S. Theis Rice
Name (Printed or typed)
Authorized Representative of
Trinity Industries, Inc.

V.P. & Chief Legal Officer
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.