EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1290-WQ-E **TCEQ ID:** RN105520431 **CASE NO.:** 36340

RESPONDENT NAME: Ross Construction, Inc.

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: The Reserve at Lake Travis, located off Thurman Bend Road, approximately 300 feet north of the intersection of Thurman Bend Road and Sandcastle Drive, Spicewood, Travis County

TYPE OF OPERATION: Residential construction site

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: A complaint was received April 11, 2008, alleging that sediment from construction, slurry from drilling, and material from burn piles were entering on-site dry creeks. Also, it was alleged that no practices were in place to prevent discharge into Lake Travis. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 8, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Ned Ross, Owner/President, Ross Construction, Inc., P.O. Box 93188, Austin, Texas 78709

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** April 11, 2008 **Date of Investigation Relating to this Case:** May 2 and 22, 2008 **Date of NOV/NOE Relating to this Case:** July 14, 2008 (NOE) **Background Facts:** This was a complaint investigation. **WATER** 1) Failure to obtain authorization to discharge storm water associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)]. 2) Failure to prevent the unauthorized discharge of sediment into or adjacent to water in the state. Specifically, the investigator observed a silt fence leaning backward with a sediment discharge path leading to a drainage conveyance 200 feet from the property, fallen trees along the bank of the lake and a sediment path to the lake, and in the commercial area, topsoil and debris accumulation were observed along the rock bank and in the water from storm water flow [TEX. WATER CODE § 26.121(a)].	**Total Assessed:** $1,500 **Total Deferred:** $300 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,200 **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site: a. On May 20, 2008, obtained authorization to discharge storm water under Texas Pollutant Discharge Elimination System Storm Water Construction General Permit No. TXR15KQ19; and b. On May 28, 2008, submitted written and photographic documentation of best management practices installed to prevent further discharges of sediment and debris into water in the state.

Additional ID No(s).: TXR15KQ19

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 12, 2008*

TCEQ

DATES					
Assigned	4-Aug-2008				
PCW	15-Aug-2008	Screening	7-Aug-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Ross Construction, Inc.		
Reg. Ent. Ref. No.	RN105520431		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36340	No. of Violations	2
Docket No.	2008-1290-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement — *Subtotals 2, 3, & 7* $0

Notes: No adjustment due to no compliance history.

Culpability No 0.0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* $500

Economic Benefit 0.0% Enhancement* — *Subtotal 6* $0

Total EB Amounts $12
Approx. Cost of Compliance $3,600

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $1,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $1,500

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $1,500

DEFERRAL 20.0% Reduction — *Adjustment* -$300

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 $1,200

Screening Date 7-Aug-2008 **Docket No.** 2008-1290-WQ-E **PCW**

Respondent Ross Construction, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36340

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105520431

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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 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)

N/A

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 adjustment due to no compliance history.

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

Screening Date 7-Aug-2008 **Docket No.** 2008-1290-WQ-E **PCW**

Respondent Ross Construction, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 36340 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN105520431

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge storm water associated with construction activities.

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: 100% of the rule requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 18 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One monthly event is recommended from the beginning date of investigation (May 2, 2008) to the date of compliance (May 20, 2008).

Good Faith Efforts to Comply

25.0% Reduction — $250

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

Notes: The Respondent came into compliance on May 20, 2008.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $750

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

Economic Benefit Worksheet

Respondent Ross Construction, Inc.
Case ID No. 36340
Reg. Ent. Reference No. RN105520431
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$2,000	2-May-2008	20-May-2008	0.05	$0	$7	$7
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	$100	2-May-2008	20-May-2008	0.05	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to obtain a storm water permit and to develop and implement a storm water pollution prevention plan. Date required is the date of the investigation. Final date is the 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: $2,100

TOTAL: $7

Screening Date 7-Aug-2008 **Docket No.** 2008-1290-WQ-E **PCW**

Respondent Ross Construction, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 36340 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN105520431

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)

Violation Description Failed to prevent the unauthorized discharge of sediment into or adjacent to water in the state. Specifically, during the May 2, 2008 investigation, the investigator observed a silt fence leaning backward with a sediment discharge path leading to a drainage conveyance 200 feet from the property, fallen trees along the bank of the lake and a sediment path to the lake, and in the commercial area, topsoil and debris accumulation were observed along the rock bank and in the water from storm water flow.

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 as a result of this violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 26 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 the beginning date of investigation (May 2, 2008) to the date of compliance (May 28, 2008).

Good Faith Efforts to Comply

25.0% Reduction $250

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

Notes: The Respondent came into compliance on May 28, 2008.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $750

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

Economic Benefit Worksheet

Respondent Ross Construction, Inc.
Case ID No. 36340
Reg. Ent. Reference No. RN105520431
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$1,500	2-May-2008	28-May-2008	0.07	$5	n/a	$5
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to implement Best Management Practices to prevent the discharge of sediments into or adjacent to water of the state. Date required is the date of the investigation. Final date is the date documentation of installation of Best Management Practices was 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 $1,500

TOTAL $5

Compliance History

Customer/Respondent/Owner-Operator:	CN602548737	Ross Construction, Inc.	Classification: AVERAGE	Rating: 2.63
Regulated Entity:	RN105520431	THE RESERVE AT LAKE TRAVIS	Classification:	Site Rating:

ID Number(s):	STORMWATER	PERMIT	TXR15KQ19
Location:	OFF THURMAN BEND ROAD, APPROXIMATELY 300 FEET NORTH OF THE INTERSECTION WITH SANDCASTLE DRIVE IN SPICEWOOD, TEXAS 78669		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	August 06, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 06, 2003 to August 06, 2008		

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

Name: Lanae Foard Phone: 512-239-2554

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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 07/31/2008 (680438)

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

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**
ROSS CONSTRUCTION, INC.	§	
RN105520431	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-1290-WQ-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 Ross Construction, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a residential construction site located off Thurman Bend Road, approximately 300 feet north of the intersection of Thurman Bend Road and Sandcastle Drive in Spicewood, Travis County, Texas (the "Site").

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

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

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 19, 2008.

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

6. An administrative penalty in the amount of One Thousand Five Hundred Dollars ($1,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid One Thousand Two Hundred Dollars ($1,200) of the administrative penalty and Three Hundred Dollars ($300) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent has implemented the following corrective measures at the Site:

   a. On May 20, 2008, obtained authorization to discharge storm water under Texas Pollutant Discharge Elimination System Storm Water Construction General Permit No. TXR15KQ19; and

   b. On May 28, 2008, submitted written and photographic documentation of best management practices installed to prevent further discharges of sediment and debris into water in the state.

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 the Respondent 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 Site, the Respondent is alleged to have:

1. Failed to obtain authorization to discharge storm water associated with construction activities, as documented during an investigation conducted on May 2 and 22, 2008, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c).

2. Failed to prevent the unauthorized discharge of sediment into or adjacent to water in the state, as documented during an investigation conducted on May 2 and 22, 2008, in violation of TEX. WATER CODE § 26.121(a). Specifically, the investigator observed a silt fence leaning backward with a sediment discharge path leading to a drainage conveyance 200 feet from the property,

fallen trees along the bank of the lake and a sediment path to the lake, and in the commercial area, topsoil and debris accumulation were observed along the rock bank and in the water from storm water flow.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ross Construction, Inc., Docket No. 2008-1290-WQ-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

_____ 11/14/2008
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

_____ 9/19/08
Signature Date

Ned Ross- President President
Name (Printed or typed) Title
Authorized Representative of
Ross Construction, Inc.

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.