

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1105-WQ-E TCEQ ID: RN105538649 CASE NO.: 36153**  
**RESPONDENT NAME: Silo Road Partners, Ltd.**

|   |   |  |
|---|---|--|
| <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 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 checked="" 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> Silo Road Partners Sunset Point, located at County Road 560 and Andrew Drive, Farmersville, Collin County</p> <p><b>TYPE OF OPERATION:</b> Residential construction site</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on April 2, 2008, alleging that the developer did not have a storm water permit. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 12, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Doug L. Terry, Member, Silo Road Partners, Ltd., P.O. Box 622, Colleyville, Texas 76034<br/> <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><br/> <input checked="" type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b><br/>                     April 2, 2008</p> <p><b>Date of Investigation Relating to this Case:</b><br/>                     April 30, 2008</p> <p><b>Date of NOE Relating to this Case:</b> June 10, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>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)].</p> | <p><b>Total Assessed:</b> \$1,500</p> <p><b>Total Deferred:</b> \$300<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$100<br/>                     (remaining \$1,100 due in 11 monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <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>The Executive Director recognizes that on June 2, 2008, the Respondent obtained provisional coverage to discharge storm water by submitting a Notice of Intent and applicable fees to the Wastewater Permitting Section.</p> |

Additional ID No(s): None



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

|              |          |             |           |            |         |
|--------------|----------|-------------|-----------|------------|---------|
| <b>DATES</b> | Assigned | 17-Jun-2008 |           |            |         |
|              | PCW      | 2-Jul-2008  | Screening | 2-Jul-2008 | EPA Due |

|  |                          |
|--|--------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                          |
| Respondent                             | Silo Road Partners, Ltd. |
| Reg. Ent. Ref. No.                     | RN105538649              |
| Facility/Site Region                   | 4-Dallas/Fort Worth      |
| Major/Minor Source                     | Minor                    |

|                                 |                |                       |                    |
|---------------------------------|----------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b>         |                |                       |                    |
| Enf./Case ID No.                | 36153          | No. of Violations     | 1                  |
| Docket No.                      | 2008-1105-WQ-E | Order Type            | 1660               |
| Media Program(s)                | Water Quality  | Government/Non-Profit | No                 |
| Multi-Media                     |                | Enf. Coordinator      | Lauren Smitherman  |
|                                 |                | EC's Team             | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0            | Maximum               | \$10,000           |

## Penalty Calculation Section

|   |                   |                |
|---|-------------------|----------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$2,000</b> |
|---|-------------------|----------------|

|  |                  |                                |
|--|------------------|--------------------------------|
| <b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>   |                  |                                |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. |                  |                                |
| <b>Compliance History</b>  | 0.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> |
|  |                  | <b>\$0</b>                     |

Notes: No enhancement due to average performer classification.

|                    |    |                  |                   |            |
|--------------------|----|------------------|-------------------|------------|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |              |
|--|-------------------|--------------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | <b>\$500</b> |
|--|-------------------|--------------|

|                         |                   |                   |            |
|-------------------------|-------------------|-------------------|------------|
| <b>Economic Benefit</b> | 0.0% Enhancement* | <b>Subtotal 6</b> | <b>\$0</b> |
|-------------------------|-------------------|-------------------|------------|

Total EB Amounts: \$13  
 Approx. Cost of Compliance: \$2,100  
 \*Capped at the Total EB \$ Amount

|                             |                       |                |
|-----------------------------|-----------------------|----------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$1,500</b> |
|-----------------------------|-----------------------|----------------|

|   |      |                   |            |
|---|------|-------------------|------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | <b>\$0</b> |
|---|------|-------------------|------------|

Notes: Reduces or enhances the Final Subtotal by the indicated percentage.

|                             |                |
|-----------------------------|----------------|
| <b>Final Penalty Amount</b> | <b>\$1,500</b> |
|-----------------------------|----------------|

|                                   |                               |                |
|-----------------------------------|-------------------------------|----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$1,500</b> |
|-----------------------------------|-------------------------------|----------------|

|                 |                 |                   |               |
|-----------------|-----------------|-------------------|---------------|
| <b>DEFERRAL</b> | 20.0% Reduction | <b>Adjustment</b> | <b>-\$300</b> |
|-----------------|-----------------|-------------------|---------------|

Notes: Deferral offered for expedited settlement.

|                        |                |
|------------------------|----------------|
| <b>PAYABLE PENALTY</b> | <b>\$1,200</b> |
|------------------------|----------------|

Screening Date 2-Jul-2008

Docket No. 2008-1105-WQ-E

PCW

Respondent Silo Road Partners, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 36153

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105538649

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

## Compliance History Worksheet

## &gt;&gt; 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%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

No enhancement due to average performer classification.

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

|  |  |                                    |   |  |
|--|--|------------------------------------|---|--|
| <b>Screening Date</b> 2-Jul-2008   |  | <b>Docket No.</b> 2008-1105-WQ-E   |   | <b>PCW</b>   |
| <b>Respondent</b> Silo Road Partners, Ltd.   |  |                                    | <i>Policy Revision 2 (September 2002)</i>                                 |  |
| <b>Case ID No.</b> 36153   |  |                                    | <i>PCW Revision June 12, 2008</i>   |  |
| <b>Reg. Ent. Reference No.</b> RN105538649   |  |                                    |   |  |
| <b>Media [Statute]</b> Water Quality   |  |                                    |   |  |
| <b>Enf. Coordinator</b> Lauren Smitherman  |  |                                    |   |  |
| <b>Violation Number</b>  | <input type="text" value="1"/>   |                                    |   |  |
| <b>Rule Cite(s)</b>  | <input type="text" value="30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)"/>   |                                    |   |  |
| <b>Violation Description</b>   | <input type="text" value="Failed to obtain authorization to discharge storm water associated with construction activities, as documented during an investigation conducted on April 30, 2008."/> |                                    |   |  |
| <b>Base Penalty</b>  |  |                                    |   | <input type="text" value="\$10,000"/>                              |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>  |  |                                    |   |  |
| OR   | <b>Harm</b>  |                                    |   |  |
|  |  | Major                              | Moderate  | Minor  |
|  | <b>Actual</b>  | <input type="text"/>               | <input type="text"/>  | <input type="text"/>   |
| <b>Potential</b>   | <input type="text"/>   | <input type="text"/>               | <input type="text"/>  |  |
|  |  |                                    |   | <b>Percent</b> <input type="text" value="0%"/>                     |
| <b>&gt;&gt; Programmatic Matrix</b>  |  |                                    |   |  |
|  | Falsification  | Major                              | Moderate  | Minor  |
|  | <input type="text"/>   | x                                  | <input type="text"/>  | <input type="text"/>   |
|  |  |                                    |   | <b>Percent</b> <input type="text" value="10%"/>                    |
| <b>Matrix Notes</b>  | <input type="text" value="100% of the rule requirement was not met."/>   |                                    |   |  |
| <b>Adjustment</b>  |  |                                    |   | <input type="text" value="\$9,000"/>                               |
|  |  |                                    |   | <input type="text" value="\$1,000"/>                               |
| <b>Violation Events</b>  |  |                                    |   |  |
| <b>Number of Violation Events</b>  |  | <input type="text" value="2"/>     | <b>Number of violation days</b>   |  |
|  |  | <input type="text" value="33"/>    |   |  |
| <i>mark only one with an x</i>   | daily  | <input type="text"/>               |   |  |
|  | monthly  | x                                  |   |  |
|  | quarterly  | <input type="text"/>               |   |  |
|  | semiannual   | <input type="text"/>               |   |  |
|  | annual   | <input type="text"/>               |   |  |
|  | single event   | <input type="text"/>               |   |  |
|  |  |                                    |   | <b>Violation Base Penalty</b> <input type="text" value="\$2,000"/> |
| <input type="text" value="Two monthly events are recommended based on the investigation date (April 30, 2008) to the date of compliance (June 2, 2008)."/> |  |                                    |   |  |
| <b>Good Faith Efforts to Comply</b>  |  | <input type="text" value="25.0%"/> | <b>Reduction</b>  |  |
|  |  | Before NOV                         | NOV to EDRP/Settlement Offer  |  |
| Extraordinary  | <input type="text"/>   | <input type="text"/>               |   |  |
| Ordinary   | x  | <input type="text"/>               |   |  |
| N/A  | <input type="text"/>   | (mark with x)                      |   |  |
| <b>Notes</b>   | <input type="text" value="The Respondent came into compliance on June 2, 2008."/>  |                                    |   |  |
| <b>Violation Subtotal</b>  |  |                                    |   | <input type="text" value="\$1,500"/>                               |
| <b>Economic Benefit (EB) for this violation</b>  |  |                                    | <b>Statutory Limit Test</b>   |  |
| <b>Estimated EB Amount</b>   |  | <input type="text" value="\$13"/>  | <b>Violation Final Penalty Total</b> <input type="text" value="\$1,500"/> |  |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b>   |  |                                    |   | <input type="text" value="\$1,500"/>                               |

## Economic Benefit Worksheet

**Respondent** Silo Road Partners, Ltd.  
**Case ID No.** 36153  
**Reg. Ent. Reference No.** RN105538649  
**Media** Water Quality  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### 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 | 30-Apr-2008 | 2-Jun-2008 | 0.09 | \$1 | \$12 | \$13 |
| 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   | 30-Apr-2008 | 2-Jun-2008 | 0.09 | \$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 (SWP3). Date required is 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**

\$13

# Compliance History

Customer/Respondent/Owner-Operator: CN603366196 SILO ROAD PARTNERS LTD Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN105538649 SILO ROAD PARTNERS SUNSET POINT Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s):  
Location: CR 560 AND ANDREW DR, FARMERSVILLE, COLLIN CO, TX  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: July 01, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 01, 2003 to July 01, 2008

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

Name: Lauren Smitherman Phone: 512-239-5223

## 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.)  
N/A
- 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  
ENFORCEMENT ACTION  
CONCERNING  
SILO ROAD PARTNERS, LTD.  
RN105538649**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-1105-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 Silo Road Partners, Ltd. ("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 at County Road 560 and Andrew Drive in Farmersville, Collin 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 June 15, 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 Hundred Dollars (\$100) 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. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand One Hundred Dollars (\$1,100) of the administrative penalty shall be payable in 11 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 on June 2, 2008, the Respondent obtained provisional coverage to discharge storm water by submitting a Notice of Intent and applicable fees to the Wastewater Permitting Section.
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 failed to obtain authorization to discharge storm water associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on April 30, 2008.



### 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: Silo Road Partners, Ltd., Docket No. 2008-1105-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. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.

7. 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

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

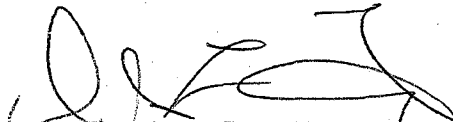
\_\_\_\_\_  
Date 1/9/2009

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.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 10/20/08

Douglas L. Terry  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Silo Road Partners, Ltd.

\_\_\_\_\_  
Title member

**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.

