

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1464-AIR-E **TCEQ ID:** RN101462570 **CASE NO.:** 36515

RESPONDENT NAME: Load Trail, Ltd.

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Load Trail, 2097 Farm-to-Market Road 2352, Sumner, Lamar County</p> <p>TYPE OF OPERATION: Trailer manufacturing</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-1220-IHW-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 27, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Cornelius Thiessen, General Manager, Load Trail, Ltd., 2097 Farm-to-Market Road 2352, Sumner, Texas 75486 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 17 and September 9, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 29, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation and a record review.</p> <p>AIR</p> <p>1) Failure to submit five annual compliance certifications ("ACCs") and associated deviation reports. Specifically, ACCs and deviation reports for the periods July 15, 2003 to July 14, 2008, have not been submitted [Federal Operating Permit No. O-02412, General Terms and Conditions, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2), and 122.146(1), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to have authorization to operate a source of air emissions. Specifically, the Respondent had a New Source Review Permit (No. 33804), but that permit expired on February 18, 2007, and the Respondent failed to renew it [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p> <p>3) Operated emissions units with an expired Federal Operating Permit. Specifically, the Respondent's Federal Operating Permit No. O-02412 expired on July 15, 2008, but the Respondent continued to operate its emissions units without renewing the permit [30 TEX. ADMIN. CODE §§ 122.121 and 122.241(b) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$68,250</p> <p>Total Deferred: \$13,650 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$2,100 (remaining \$52,500 due in 60 monthly payments of \$875 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of the Agreed Order, implement improvements to the reporting system in order to prevent the failure to submit ACCs and deviation reports;</p> <p>b) Within 30 days after the effective date of this Agreed Order, submit an initial Operating Permit application to the TCEQ Air Permits Division;</p> <p>c) Within 30 days after the effective date of this Agreed Order, submit an administratively complete New Source Review permit application to the TCEQ Air Permits Division;</p> <p>d) Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning any Operating Permit or New Source Review Permit application within 30 days of the date of such letters, or by any other deadline specified in writing;</p> <p>e) Within 45 days after the effective date of the Agreed Order, submit written certification of compliance with Ordering Provision a.;</p> <p>f) Within 180 days after the effective date of this Agreed Order, submit written certification that either New Source Review authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained; and</p> <p>g) Within 720 days after the effective date of the Agreed Order, certify compliance with Commission rules regarding authorization to operate a source of air emissions under the Operating Permits program or cease operations until appropriate authorization is obtained.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Sep-2008			
	PCW	18-Nov-2008	Screening	11-Sep-2008	EPA Due 10-Jul-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	Load Trail, Ltd.
Reg. Ent. Ref. No.	RN101462570
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36515	No. of Violations	3
Docket No.	2008-1464-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Terry Murphy
		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$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 Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *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.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 11-Sep-2008

Docket No. 2008-1464-AIR-E

PCW

Respondent Load Trail, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 36515

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101462570

Media [Statute] Air

Enf. Coordinator Terry Murphy

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)	1	5%
	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%
<i>Please Enter Yes or No</i>			
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by one same or similar NOV.

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

Screening Date 11-Sep-2008	Docket No. 2008-1464-AIR-E	PCW
Respondent Load Trail, Ltd.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36515		<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No. RN101462570		
Media [Statute] Air		
Enf. Coordinator Terry Murphy		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	Federal Operating Permit No. O-02412, General Terms and Conditions, 30 Tex. Admin. Code §§ 122.143(4), 122.145(2), and 122.146(1), and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to submit annual compliance certifications ("ACCs") and deviation reports. Specifically, ACCs and deviation reports for the periods July 15, 2003 to July 14, 2008 have not been submitted, as documented during an investigation conducted on July 17, 2008 and a records review conducted on September 9, 2008.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events	<input type="text" value="5"/>	Number of violation days	<input type="text" value="1490"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$12,500"/>
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semianual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
				Violation Subtotal <input type="text" value="\$12,500"/>

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount	<input type="text" value="\$232"/>	Violation Final Penalty Total	<input type="text" value="\$13,125"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$13,125"/>

Economic Benefit Worksheet

Respondent Load Trail, Ltd.
Case ID No. 36515
Reg. Ent. Reference No. RN101462570
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0	\$0
Land			0.00	\$0	n/a	n/a	\$0
Record Keeping System			0.00	\$0	n/a	n/a	\$0
Training/Sampling			0.00	\$0	n/a	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	n/a	\$0
Permit Costs			0.00	\$0	n/a	n/a	\$0
Other (as needed)	\$1,000	13-Aug-2004	1-Apr-2009	4.64	\$232	n/a	\$232

Notes for DELAYED costs

Estimated costs to prepare and submit reports. The Date Required is the date the first ACC was due, and the Final Date is the date the reports are expected to be submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$232

Screening Date 11-Sep-2008 Respondent Load Trail, Ltd. Case ID No. 36515 Reg. Ent. Reference No. RN101462570 Media [Statute] Air Enf. Coordinator Terry Murphy Violation Number <input type="text" value="2"/> Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)	Docket No. 2008-1464-AIR-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 12, 2008</i>																			
Violation Description <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> Failed to have authorization to operate a source of air emissions. Specifically, the Respondent had a New Source Review Permit (No. 33804), but that permit expired on February 18, 2007, and the Respondent failed to renew it, as documented during an investigation conducted on July 17, 2008 and a records review conducted on September 9, 2008. </div>																				
Base Penalty <input style="width: 100px;" type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th colspan="3" style="text-align: center;">Harm</th> <th style="width: 10%;"></th> </tr> <tr> <th style="text-align: left;">Release</th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> <th></th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input style="width: 50px;" type="text" value="0%"/></td> </tr> <tr> <td style="text-align: left;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </tbody> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Harm																			
Release	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0%"/>																
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
>> Programmatic Matrix																				
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> <th style="width: 10%;"></th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input style="width: 50px;" type="text" value="25%"/></td> </tr> <tr> <td style="text-align: left;">The Respondent failed to comply with 100% of the rule.</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </tbody> </table>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="25%"/>	The Respondent failed to comply with 100% of the rule.	x	<input type="text"/>	<input type="text"/>					
	Major	Moderate	Minor																	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="25%"/>																
The Respondent failed to comply with 100% of the rule.	x	<input type="text"/>	<input type="text"/>																	
Adjustment <input style="width: 100px;" type="text" value="\$7,500"/>																				
<input style="width: 100px;" type="text" value="\$2,500"/>																				
Violation Events																				
	Number of Violation Events <input style="width: 50px;" type="text" value="19"/>																			
	<input style="width: 50px;" type="text" value="571"/> Number of violation days																			
mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td style="text-align: left;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: left;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: left;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: left;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: left;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: left;">single event</td><td><input type="text"/></td></tr> </tbody> </table>	daily	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>							
daily	<input type="text"/>																			
monthly	x																			
quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	<input type="text"/>																			
Violation Base Penalty <input style="width: 100px;" type="text" value="\$47,500"/>																				
Nineteen monthly events are recommended from the permit expiration date (February 18, 2007) to the enforcement screening date (September 11, 2008).																				
Good Faith Efforts to Comply																				
0.0% Reduction <input style="width: 100px;" type="text" value="\$0"/>																				
	Before NOV NOV to EDPRP/Settlement Offer																			
Extraordinary Ordinary N/A	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 50%;"></td> <td style="width: 50%;"></td> </tr> <tr> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </tbody> </table>			x	(mark with x)															
x	(mark with x)																			
Notes	<div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> The Respondent does not meet the good faith criteria for this violation </div>																			
Violation Subtotal <input style="width: 100px;" type="text" value="\$47,500"/>																				
Economic Benefit (EB) for this violation																				
Statutory Limit Test																				
Estimated EB Amount <input style="width: 100px;" type="text" value="\$795"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$49,875"/>																			
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$49,875"/>																				

Economic Benefit Worksheet

Respondent Load Trail, Ltd.
Case ID No. 36515
Reg. Ent. Reference No. RN101462570
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost
Date Required
Final Date
Yrs
Interest Saved
Onetime Costs
EB Amount

Item Description 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			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs	\$5,000	18-Feb-2007	23-Apr-2010	3.18	\$795	\$795
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated costs to prepare and submit a permit request. The Date Required is the date the permit expired, and the Final Date is the date the permit is expected to be issued.

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 \$5,000
TOTAL \$795

Screening Date 11-Sep-2008	Docket No. 2008-1464-AIR-E	PCW												
Respondent Load Trail, Ltd.		<small>Policy Revision 2 (September 2002)</small>												
Case ID No. 36515		<small>PCW Revision June 12, 2008</small>												
Reg. Ent. Reference No. RN101462570														
Media [Statute] Air														
Enf. Coordinator Terry Murphy														
Violation Number <input type="text" value="3"/>														
Rule Cite(s)	30 Tex. Admin. Code §§ 122.121 and 122.241(b) and Tex. Health & Safety Code § 382.085(b)													
Violation Description	Operated emissions units with an expired Federal Operating Permit. Specifically, the Respondent's Federal Operating Permit No. O-02412 expired on July 15, 2008, but the Respondent continued to operate its emissions units without renewing the permit, as documented during an investigation conducted on July 17, 2008 and a records review conducted on September 9, 2008.													
	Base Penalty	<input type="text" value="\$10,000"/>												
>> Environmental, Property and Human Health Matrix														
OR	Harm													
	Release	Major Moderate Minor												
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>												
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>												
	Percent	<input type="text" value="0%"/>												
>> Programmatic Matrix														
	Falsification	Major Moderate Minor												
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>												
	Percent	<input type="text" value="25%"/>												
Matrix Notes	The Respondent failed to comply with 100% of the rule.													
	Adjustment	<input type="text" value="\$7,500"/>												
		<input type="text" value="\$2,500"/>												
Violation Events														
	Number of Violation Events <input type="text" value="2"/>	<input type="text" value="58"/> Number of violation days												
<small>mark only one with an x</small>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 50px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"><input checked="" type="checkbox"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"><input type="checkbox"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"><input type="checkbox"/></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"><input type="checkbox"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black;"><input type="checkbox"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input checked="" type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$5,000"/>
daily	<input type="text"/>													
monthly	<input checked="" type="checkbox"/>													
quarterly	<input type="checkbox"/>													
semiannual	<input type="checkbox"/>													
annual	<input type="checkbox"/>													
single event	<input type="checkbox"/>													
	Two monthly events are recommended from the permit expiration date (July 15, 2008) to the enforcement screening date (September 11, 2008).													
Good Faith Efforts to Comply														
	0.0% Reduction	<input type="text" value="\$0"/>												
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>													
<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">Extraordinary</td><td style="border: 1px solid black; width: 50px;"><input type="text"/></td><td style="border: 1px solid black; width: 50px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">Ordinary</td><td style="border: 1px solid black;"><input type="text"/></td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">N/A</td><td style="border: 1px solid black;"><input checked="" type="checkbox"/></td><td style="border: 1px solid black;"><small>(mark with x)</small></td></tr> </table>	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>	Notes The Respondent does not meet the good faith criteria for this violation.				
Extraordinary	<input type="text"/>	<input type="text"/>												
Ordinary	<input type="text"/>	<input type="text"/>												
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>												
	Violation Subtotal	<input type="text" value="\$5,000"/>												
Economic Benefit (EB) for this violation														
	Estimated EB Amount	<input type="text" value="\$863"/>												
Statutory Limit Test														
	Violation Final Penalty Total	<input type="text" value="\$5,250"/>												
	This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$5,250"/>												

Economic Benefit Worksheet

Respondent Load Trail, Ltd.
Case ID No. 36515
Reg. Ent. Reference No. RN101462570
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	15-Jul-2008	27-Dec-2011	3.45	\$863	n/a	\$863
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated costs to prepare and submit a permit request. The Date Required is the date the permit expired, and the Final Date is the date the permit is expected to be issued.

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				0.00	\$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	\$5,000	TOTAL	\$863
-----------------------------------	---------	--------------	-------

Compliance History

Customer/Respondent/Owner-Operator: CN603378712 Load Trail, Ltd. Classification: Average Rating: 0.75
Regulated Entity: RN101462570 LOAD TRAIL Classification: Average Site Rating: 0.75
ID Number(s): AIR NEW SOURCE PERMITS PERMIT 33804
AIR NEW SOURCE PERMITS ACCOUNT NUMBER LA01750
AIR NEW SOURCE PERMITS AFS NUM 4827700021
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000079186
GENERATION
AIR EMISSIONS INVENTORY ACCOUNT NUMBER LA01750
Location: 2097 FM 2352, SUMNER, TX, 75486 Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: October 22, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 22, 2003 to October 22, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Terry Murphy Phone: (512) 239-5025

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 | 06/06/2008 | (681857) |
| 2 | 07/31/2008 | (687387) |
| 3 | 08/29/2008 | (700703) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|--------------|--|--------------------------|
| Date: | 06/11/2008 | (681857) |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 101, SubChapter A 101.10(e)
5C THSC Chapter 382.085(b) | |
| Description: | Failure to submit a 2007 Emissions Inventory: Category B19 (g)(3) | |
- 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
LOAD TRAIL, LTD.
RN101462570

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1464-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 Load Trail, Ltd. ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a trailer manufacturing plant at 2097 Farm-to-Market Road 2352 in Sumner, Lamar 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 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 September 3, 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 Sixty-Eight Thousand Two Hundred Fifty Dollars (\$68,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Dollars (\$2,100) of the

administrative penalty and Thirteen Thousand Six Hundred Fifty Dollars (\$13,650) 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 Fifty-Two Thousand Five Hundred Dollars (\$52,500) of the administrative penalty shall be payable in 60 monthly payments of Eight Hundred Seventy-Five Dollars (\$875) 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 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.
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, the Respondent is alleged to have:

1. Failed to submit five annual compliance certifications ("ACCs") and associated deviation reports, in violation of Federal Operating Permit No. O-02412, General Terms and Conditions, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2), and 122.146(1), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 17, 2008 and a records review conducted on September 9, 2008. Specifically, ACCs and deviation reports for the periods July 15, 2003 to July 14, 2008, have not been submitted.

2. Failed to have authorization to operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as documented during an investigation conducted on July 17, 2008 and a records review conducted on September 9, 2008. Specifically, the Respondent had a New Source Review Permit (No. 33804), but that permit expired on February 18, 2007, and the Respondent failed to renew it.
3. Operated emissions units with an expired Federal Operating Permit, in violation of 30 TEX. ADMIN. CODE §§ 122.121 and 122.241(b) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 17, 2008 and a records review conducted on September 9, 2008. Specifically, the Respondent's Federal Operating Permit No. O-02412 expired on July 15, 2008, but the Respondent continued to operate its emissions units without renewing the permit.

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: Load Trail, Ltd., Docket No. 2008-1464-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 the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of the Agreed Order, implement improvements to the reporting system in order to prevent the failure to submit ACCs and deviation reports;
 - b. Within 30 days after the effective date of this Agreed Order, submit an initial Operating Permit application as described by 30 TEX. ADMIN. CODE § 122.134 to the TCEQ Air Permits Division at:

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

- c. Within 30 days after the effective date of this Agreed Order, submit an administratively complete New Source Review permit application in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to the address in Ordering Provision 2.b.;
- d. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning any Operating Permit or New Source Review Permit application within 30 days of the date of such letters, or by any other deadline specified in writing;
- e. Within 45 days after the effective date of the Agreed Order, submit written certification of compliance with Ordering Provision 2.a.;
- f. Within 180 days after the effective date of this Agreed Order, submit written certification that either New Source Review authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained;
- g. Within 720 days after the effective date of the Agreed Order, certify compliance with Commission rules regarding authorization to operate a source of air emissions under the Operating Permits program or cease operations until appropriate authorization is obtained; and
- h. The certifications required by Ordering Provisions 2.e., 2.f., and 2.g. shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 certifications 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Road
Tyler, Texas 75701-3734

3. 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 Plant operations referenced in this Agreed Order.
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 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.
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 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

John Erdler
For the Executive Director

4/2/2009
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.

[Signature]
Signature

02-10-09
Date

Cory Thiessen
Name (Printed or typed)
Authorized Representative of
Load Trail, Ltd.

General Manager
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.