

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1926-AIR-E **TCEQ ID:** RN101698439 **CASE NO.:** 31785

RESPONDENT NAME: LI Holdings, Inc. (formerly known as Lide Industries, Inc.)

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Lide Industries Mexia, 1618 West Highway 84, Mexia, Freestone County</p> <p>TYPE OF OPERATION: Tank manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on October 15, 2008, alleging that the Respondent was not compliant with a previous Agreed Order nor meeting permit requirements. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-1919-AIR-E.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 8, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, Enforcement Division, MC 219, (512) 239-6732 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. Bobby L. Lide, Vice President, LI Holdings, Inc., 1618 West Highway 84, Mexia, Texas 76667 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2008-1926-AIR-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: October 15, 2008</p> <p>Date of Investigation Relating to this Case: November 13, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 3, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>Failure to comply with the ordering provisions of an Agreed Order, and exceeding Permit by Rule emissions limits. Specifically, the Permit by Rule limited volatile organic compound emissions from each paint booth (North Main, South Main, and North East) to six pounds per hour, averaged over any five-hour period, and the Agreed Order required the Respondent to comply with those limits, but those limits were exceeded from May 23 through July 12, 2008 [Agreed Order Docket No. 2006-2045-AIR-E, Ordering Provisions 3(a)(iii) and 3(a)(xi), New Source Review Permit by Rule Registration No. 27190, 30 TEX. ADMIN. CODE § 106.433(6)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$28,378</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$14,189</p> <p>Total Paid to General Revenue: \$14,189</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>Findings Orders Justification: This case involves the absence of management practices designed to ensure compliance.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent ceased owner/operatorship of the Plant on July 14, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): FI0159N

Attachment A
Docket Number: 2008-1926-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: LI Holdings, Inc. (formerly known as Lide Industries, Inc.)

Penalty Amount: Twenty-Eight Thousand Three Hundred Seventy-Eight Dollars (\$28,378)

SEP Offset Amount: Fourteen Thousand One Hundred Eighty-Nine Dollars (\$14,189)

Type of SEP: Pre-approved

Third-Party Recipient: Texas PTA – *Clean School Bus Program*

Location of SEP: Texas Air Quality Control No. 212-Austin-Waco

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	8-Dec-2008	Screening	12-Jan-2009	EPA Due	
	PCW	2-Mar-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	LI Holdings, Inc. (formerly known as Lide Industries, Inc.)		
Reg. Ent. Ref. No.	RN101698439		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	31785	No. of Violations	1
Docket No.	2008-1926-AIR-E	Order Type	Findings
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	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	82.0% Enhancement	Subtotals 2, 3, & 7	\$6,150
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Notes	The penalty was enhanced by two 1660-style agreed orders, one findings agreed order, four NOV's for dissimilar violations, and poor performer person classification. The penalty was reduced by one NOA.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$14,728	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$96,600	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,650
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OTHER FACTORS AS JUSTICE MAY REQUIRE	107.9%	Adjustment	\$14,728
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with the violation.
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Final Penalty Amount	\$28,378
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$28,378
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$28,378
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Screening Date 12-Jan-2009

Docket No. 2008-1926-AIR-E

PCW

Respondent LI Holdings, Inc. (formerly known as Lide Industries, Inc.)

Policy Revision 2 (September 2002)

Case ID No. 31785

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101698439

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)	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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	1	25%
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)	1	-1%
	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) 72%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by two 1660-style agreed orders, one findings agreed order, four NOVs for dissimilar violations, and poor performer person classification. The penalty was reduced by one NOA.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 12-Jan-2009	Docket No. 2008-1926-AIR-E	PCW		
Respondent LI Holdings, Inc. (formerly known as Lide Industries, Inc.)	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 31785	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN101698439				
Media [Statute] Air				
Enf. Coordinator Terry Murphy				
Violation Number 1				
Rule Cite(s)	Agreed Order Docket No. 2006-2045-AIR-E, Ordering Provisions 3(a)(iii) and 3(a)(xi), New Source Review Permit by Rule Registration No. 27190, 30 Tex. Admin. Code § 106.433(6)(A), and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to comply with the ordering provisions of an agreed order, and exceeded Permit by Rule emissions limits. Specifically, the Permit by Rule limited volatile organic compound emissions from each paint booth (North Main, South Main, and North East) to six pounds per hour, averaged over any five-hour period, and the agreed order required the Respondent to comply with those limits, but those limits were exceeded from May 23 through July 12, 2008, as documented during an investigation conducted on November 13, 2008.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			X
	Potential			
		Percent	25%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		Percent	0%	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors: pounds per hour emissions varied between 6.01 and 12.58.			
Adjustment		\$7,500	96600	
		\$2,500		
Violation Events				
Number of Violation Events		3	Number of violation days	
		50		
<i>mark only one with an x</i>	daily			
	weekly			
	monthly			
	quarterly	X		
	semiannual			
	annual			
	single event			
		Violation Base Penalty		\$7,500
Three quarterly events are recommended, one quarter each for the North Main (5/24-5/30/08), South Main (6/2-7/12/08), and North East (5/23- 7/7/08) booths.				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	X	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$7,500		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$14,728	Violation Final Penalty Total	\$28,378	
		This violation Final Assessed Penalty (adjusted for limits)		
		\$28,378		

Economic Benefit Worksheet

Respondent: LI Holdings, Inc. (formerly known as Lide Industries, Inc.)

Case ID No.: 31785

Reg. Ent. Reference No.: RN101698439

Media: Air

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
<i>No commas or \$</i>							

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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel	\$96,600	22-May-2008	14-Jul-2008	0.15	\$701	\$14,027	\$14,728
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

Estimated additional supervisory oversight to ensure limits are not exceeded (3 paint booths X \$88.22/day X 365 days). The Date Required is the date the agreed order became effective, and the Final Date is the date the Respondent sold the plant.

Approx. Cost of Compliance

\$96,600

TOTAL

\$14,728

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600917579	LI Holdings, Inc. (formerly known as Lide Industries, Inc.)	Classification: Poor	Rating: 136.43
Regulated Entity:	RN101698439	LIDE INDUSTRIES MEXIA	Classification: Poor	Site Rating: 136.43
ID Number(s):	AIR NEW SOURCE PERMITS PERMIT 27190 AIR NEW SOURCE PERMITS PERMIT 27379 AIR NEW SOURCE PERMITS ACCOUNT NUMBER FI0159N AIR NEW SOURCE PERMITS PERMIT 75952 AIR NEW SOURCE PERMITS AFS NUM 4816100636 AIR NEW SOURCE PERMITS REGISTRATION 49863 ON SITE SEWAGE FACILITY PERMIT 0810256 STORMWATER PERMIT TXR05X646 AIR OPERATING PERMITS PERMIT 2916 AIR OPERATING PERMITS ACCOUNT NUMBER FI0159N PETROLEUM STORAGE TANK REGISTRATION 79378 REGISTRATION			
Location:	1618 West Highway 84, Mexia, Freestone County			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	December 19, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 19, 2003 to December 19, 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? | Yes |
| 3. If Yes, who is the current owner? | Lide Industries, LLC |
| 4. If Yes, who was/were the prior owner(s)? | LI Holdings, Inc (formerly known as Lide Industries, Inc) |
| 5. When did the change(s) in ownership occur? | 14-Jul-08 |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO | |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|--|------------------------------|
| Effective Date: 06/09/2005 | Admin. Order 2004-1270-AIR-E |
| Classification: Major | |
| Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b) | |
| Description: Failure to satisfy the conditions of Permit by Rule (PBR) 30 Tex. Admin. Code §106.433 or obtaining a permit under §116.111. | |
| Classification: Major | |
| Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b) | |
| Description: Failure to meet the conditions of Standard Exemption 75, August 16, 1993 Standard Exemption List (now 30 TAC Sec. 106.433) for surface coating operations (exceeded VOC pounds per hour limits) or obtain a permit under 30 Tex. Admin. Code §116.111 . | |
| Effective Date: 12/22/2006 | Admin. Order 2006-0905-AIR-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THC Chapter 382, SubChapter D 382.085(a)
5C THC Chapter 382, SubChapter D 382.085(b) | |
| Description: Failed to prevent dust from migrating onto adjacent property and creating a nuisance condition. | |

Classification: Major

Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter B 122.130(b)(1)
5C THC Chapter 382, SubChapter A 382.054
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to obtain a Title V Federal Operating. Records show that Lide Industries emits the HAP Xylene in excess of 10 tpy and a combination of other HAPS in excess of 25 tpy.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(6)(A)
30 TAC Chapter 106, SubChapter S 106.433(7)(A)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to comply with the conditions of Permit by Rule 106.433 at the Main, East and West outdoor surface coating facilities by exceeding the six pounds per hour limit of VOC emissions averaged over any five-hour period.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 11B PERMIT

Description: Failed to keep records of actual hours of operation and failed to keep records of cleaning solvents used in the plant.

Effective Date: 05/22/2008

Admin. Order 2006-2045-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THC Chapter 382, SubChapter D 382.085(a)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to prevent dust from migrating onto adjacent property and creating a nuisance condition.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(6)(A)
30 TAC Chapter 106, SubChapter S 106.433(7)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to comply with the conditions of Permit by Rule 106.433 at the Main, East and West outdoor surface coating facilities by exceeding the six pounds per hour limit of VOC emissions averaged over any five-hour period.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to comply with outdoor burning rules which prohibit outdoor burning of waste from a business.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 9(B) PERMIT
Special Condition 3 (B) PA

Description: failed to route all emissions from EPN MINCIN to the TO and failed to conduct stack sampling, and other testing within 180 days after the start of manufacturing operations to determine the destruction efficiency and the pounds per hour of the VOCs and exempt solvents emitted into the atmosphere from the TO.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 8 (A) PA
Spec. Condition 8(B) PERMIT

Description: Failed to conduct testing within 180 days after the start of manufacturing operations to demonstrate 100% capture efficiency at the two completed spray booths at the Main and East facilities.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 11 (B) PA

Spec. Cond. 11(C) PERMIT

Description: Failed to record and maintain on file weekly data of material usage and material VOC and hazardous air pollutant content and data of actual daily hours of operations in order to demonstrate compliance, and failed to compile that data into monthly reports that represent the emissions from each emission point as shown on the MAERT in pounds per hour on a daily average basis and tons emitted.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.085(b)
5C THSC Chapter 382 382.0518(a)

Description: Failed to obtain a permit or qualify for a permit or adhere to the requirements of Permit by Rule No. 106.452(2)(A) at the sandblasting media storage facilities.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Gen. Cond. No. 9 PERMIT

Description: Failed to comply with the MAERT in Air Permit No. 75952 for EPN Nos. MINCIN, MPTBLDFUG, MPTOUTFUG and EPTOUTFUG.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(A)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to comply with the conditions of Permit by Rule (PBR) 106.452(A) at the sandblasting media storage facilities.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(7)(A)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to comply with the conditions of the Permit by Rule 106.433 at the West surface coating facility by exceeding the six pounds per hour limit of VOC emissions averaged over any five-hour period.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(7)(A)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to comply with the conditions of Permit by Rule 106.433 at the West facility surface coating facility by exceeding the six pounds per hour limit of VOC emissions averaged over any five-hour period.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THSC Chapter 382 382.085(a)
5C THSC Chapter 382 382.085(b)

Description: Failed to prevent paint over-spray from migrating onto adjacent property and creating a nuisance condition

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Sp. Cond. 9 PERMIT

Description: Failed to maintain the air pollution capture and abatement equipment in good working order and operating properly during normal facility operations.

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)
5C THC Chapter 382, SubChapter D 382.085(b)
5C THSC Chapter 382 382.0518(a)

Description: Failed to comply with Ordering Provision 2(c) of Agreed Order, Docket No. 2006-0905-AIR-E.

Classification: Major

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to adhere to the requirements of Permit by Rule No. 106.452(2)(A) at the sandblasting media storage facilities.

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	03/24/2004	(266686)
2	05/12/2004	(272041)
3	05/12/2004	(272043)
4	07/14/2004	(280896)
5	07/14/2004	(281764)
6	08/04/2004	(287252)
7	06/27/2005	(395541)
8	11/01/2005	(435570)
9	04/06/2006	(454589)
10	02/13/2008	(617662)
11	06/06/2008	(681731)
12	06/17/2008	(682920)
13	07/17/2008	(685555)
14	11/07/2008	(707495)

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

Date: 03/24/2004 (264787)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
TWC Chapter 26 26.121

Description: Unauthorized discharge of paint onto the ground.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62

40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11(a)

Description: Failure to conduct a hazardous waste determination on the the used blasting sand.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 335, SubChapter R 335.503(a)(4)(A)
30 TAC Chapter 335, SubChapter R 335.513(a)

Description: According to Mr. Bobby Lide, a waste classification has not been conducted on the used blasting sand.

Date: 03/25/2004 (266686)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)
SE 102 PA

Description: Failure to keep records of abrasive blasting as required by Standard Exemption 102 (8/16/1993).

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)
SE 75 PA

Description: Failure to keep records of surface coating to demonstrate compliance with Standard Exemption 75 (8/16/1993).

Date: 03/25/2004 (264530)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)
PBR 106.452 PA

Description: Failure to keep records of abrasive blasting usage for the main office facility as required in provision 2 (C) of PBR 106.452.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)
PBR 106.433 PA

Description: Failure to keep records of surface coating operation for the main office facility as required in provision 8 (C) of PBR 106.433.

Date: 09/11/2006 (510807)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Description: Failure to keep records of actual hours of operation.

F. Environmental audits.

Notice of Intent Date: 10/25/2006 (532696)

No DOV Associated

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
LI HOLDINGS, INC. (FORMERLY
KNOWN AS LIDE INDUSTRIES, INC.)
RN101698439

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-1926-AIR-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LI Holdings, Inc. (formerly known as Lide Industries, Inc.) ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owned and operated a tank manufacturing plant at 1618 West Highway 84 in Mexia, Freestone County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on November 13, 2008, TCEQ staff documented that the Respondent failed to comply with the ordering provisions of an Agreed Order and exceeded Permit by Rule emissions limits. Specifically, the Permit by Rule limited volatile organic compound emissions from each paint booth (North Main, South Main, and North East) to six pounds per hour, averaged over any five-hour period, and the agreed order required the Respondent to comply with those limits, but those limits were exceeded from May 23 through July 12, 2008.
4. The Respondent received notice of the violations on December 8, 2008.
5. The Executive Director recognizes that the Respondent ceased owner/operatorship of the Plant on July 14, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the ordering provisions of an agreed order, and exceeded Permit by Rule emissions limits, in violation of Agreed Order Docket No. 2006-2045-AIR-E, Ordering Provisions 3(a)(iii) and 3(a)(xi), New Source Review Permit by Rule Registration No. 27190, 30 TEX. ADMIN. CODE § 106.433(6)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twenty-Eight Thousand Three Hundred Seventy-Eight Dollars (\$28,378) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Fourteen Thousand One Hundred Eighty-Nine Dollars (\$14,189) has been paid and Fourteen Thousand One Hundred Eighty-Nine Dollars (\$14,189) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-Eight Thousand Three Hundred Seventy-Eight Dollars (\$28,378) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: LI Holdings, Inc. (formerly known as Lide Industries, Inc.), Docket No. 2008-1926-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. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4, Fourteen Thousand One Hundred Eighty-Nine Dollars (\$14,189) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.
8. 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.
9. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdlin
For the Executive Director

5/20/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of LI Holdings, Inc. (formerly known as Lide Industries, Inc.). I am authorized to agree to the attached Agreed Order on behalf of LI Holdings, Inc. (formerly known as Lide Industries, Inc.), and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, LI Holdings, Inc. (formerly known as Lide Industries, Inc.) waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Robbie Lide
Signature

04/07/09
Date

Robby L Lide
Name (Printed or typed)
Authorized Representative of
LI Holdings, Inc. (formerly known as Lide Industries, Inc.)

VP Pres
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.

Attachment A
Docket Number: 2008-1926-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: LI Holdings, Inc. (formerly known as Lide Industries, Inc.)

Penalty Amount: Twenty-Eight Thousand Three Hundred Seventy-Eight Dollars (\$28,378)

SEP Offset Amount: Fourteen Thousand One Hundred Eighty-Nine Dollars (\$14,189)

Type of SEP: Pre-approved

Third-Party Recipient: Texas PTA – *Clean School Bus Program*

Location of SEP: Texas Air Quality Control No. 212-Austin-Waco

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas PTA* for the *Clean School Bus Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to reimburse local school districts for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today’s level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas Congress of Parents and Teachers dba Texas PTA
Clean School Bus Program
Suzy Swan, Director of Finance
408 West 11th Street
Austin, Texas 78707

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

