

**Executive Summary – Enforcement Matter – Case No. 41814**  
**David Longoria Trucking & Construction, L.L.C.**  
**RN106144363**  
**Docket No. 2011-0934-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Saenz Pit Crusher, located on County Road 211, approximately 0.1 mile south of the intersection with Farm-to-Market Road 2295, Duval County

**Type of Operation:**

Portable rock crusher

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 21, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,000

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,674

**Total Due to General Revenue:** \$18,326

Payment Plan: 11 payments of \$1,666

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41814  
David Longoria Trucking & Construction, L.L.C.  
RN106144363  
Docket No. 2011-0934-AIR-E**

***Investigation Information***

**Complaint Date(s):** April 5, 2011

**Complaint Information:** Alleged that the rock crusher is being operated near residents and that it has no TCEQ permit.

**Date(s) of Investigation:** April 7, 2011

**Date(s) of NOE(s):** May 26, 2011

***Violation Information***

Failed to obtain authorization prior to conducting rock crushing operations. Specifically, the Respondent operated a Terex Pegson rock crusher, Serial No. 41-04870/420168CLSR, at the Saenz Pit on April 8, 2011 and April 12, 2011 without authorization to operate the unit [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. Obtained authorization to operate the rock crusher under a Tier I Standard Permit for Temporary Rock Crushers on April 20, 2011; and
- b. Ceased operation of the rock crusher on May 6, 2011.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

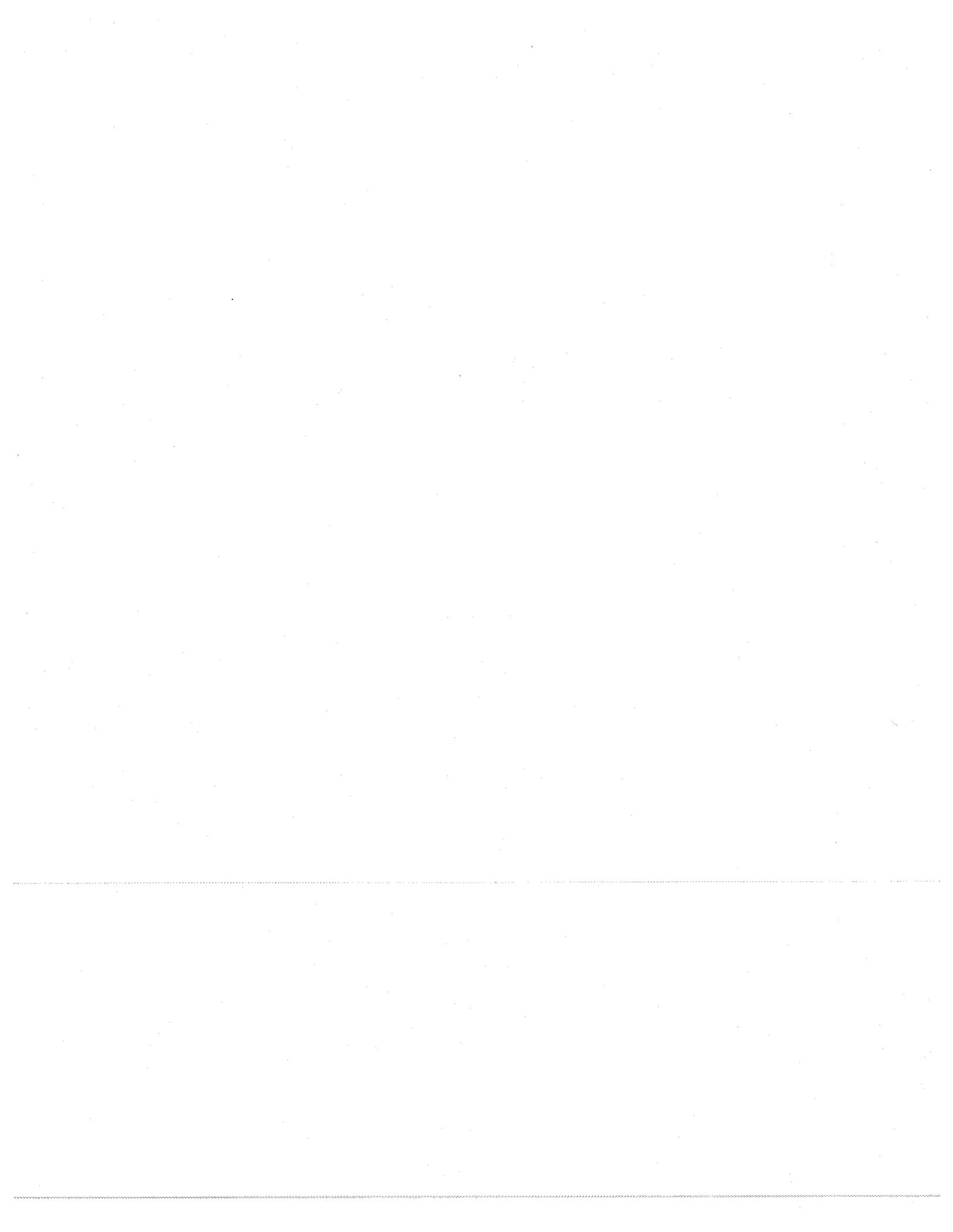
**TCEQ Enforcement Coordinator:** Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

**Executive Summary – Enforcement Matter – Case No. 41814**  
**David Longoria Trucking & Construction, L.L.C.**  
**RN106144363**  
**Docket No. 2011-0934-AIR-E**

**TCEQ SEP Coordinator:** N/A

**Respondent:** David Longoria, President, David Longoria Trucking & Construction,  
L.L.C., P.O. Box 159, Agua Dulce, Texas 78330

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|              |          |             |           |             |         |  |
|--------------|----------|-------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 31-May-2011 | Screening | 10-Jun-2011 | EPA Due |  |
|              | PCW      | 2-Sep-2011  |           |             |         |  |

|  |  |
|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |
| Respondent                             | David Longoria Trucking & Construction, L.L.C. |
| Reg. Ent. Ref. No.                     | RN106144363                                    |
| Facility/Site Region                   | 16-Laredo                                      |
| Major/Minor Source                     | Minor  |

|                         |                 |                       |                    |          |
|-------------------------|-----------------|-----------------------|--------------------|----------|
| <b>CASE INFORMATION</b> |                 |                       |                    |          |
| Enf./Case ID No.        | 41814           | No. of Violations     | 1                  |          |
| Docket No.              | 2011-0934-AIR-E | Order Type            | 1660               |          |
| Media Program(s)        | Air             | Government/Non-Profit | No                 |          |
| Multi-Media             |                 | Enf. Coordinator      | Rebecca Johnson    |          |
|                         |                 | EC's Team             | Enforcement Team 5 |          |
| Admin. Penalty \$       | Limit Minimum   | \$0                   | Maximum            | \$10,000 |

## Penalty Calculation Section

|   |                   |                 |
|---|-------------------|-----------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$20,000</b> |
|---|-------------------|-----------------|

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

|       |                                       |                               |            |
|-------|---------------------------------------|-------------------------------|------------|
| Notes | No adjustment for Compliance History. | <b>Subtotal 2, 3, &amp; 7</b> | <b>\$0</b> |
|-------|---------------------------------------|-------------------------------|------------|

|                    |  |                  |                   |            |
|--------------------|--|------------------|-------------------|------------|
| <b>Culpability</b> | No   | 0.0% Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
| Notes              | The Respondent does not meet the culpability criteria. |                  |                   |            |

|  |                   |            |
|--|-------------------|------------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | <b>\$0</b> |
|--|-------------------|------------|

|                            |                   |                                   |            |
|----------------------------|-------------------|-----------------------------------|------------|
| <b>Economic Benefit</b>    | 0.0% Enhancement* | <b>Subtotal 6</b>                 | <b>\$0</b> |
| Total EB Amounts           | \$6               | *Capped at the Total EB \$ Amount |            |
| Approx. Cost of Compliance | \$1,500           |                                   |            |

|                             |                       |                 |
|-----------------------------|-----------------------|-----------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$20,000</b> |
|-----------------------------|-----------------------|-----------------|

|   |      |                   |            |
|---|------|-------------------|------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>                         | 0.0% | <b>Adjustment</b> | <b>\$0</b> |
| Reduces or enhances the Final Subtotal by the indicated percentage. |      |                   |            |

|       |  |                             |                 |
|-------|--|-----------------------------|-----------------|
| Notes |  | <b>Final Penalty Amount</b> | <b>\$20,000</b> |
|-------|--|-----------------------------|-----------------|

|                                   |                               |                 |
|-----------------------------------|-------------------------------|-----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$20,000</b> |
|-----------------------------------|-------------------------------|-----------------|

|  |                |                   |            |
|--|----------------|-------------------|------------|
| <b>DEFERRAL</b>  | 0.0% Reduction | <b>Adjustment</b> | <b>\$0</b> |
| Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.) |                |                   |            |

|       |  |  |  |
|-------|--|--|--|
| Notes | No deferral is recommended since a mandatory statutory penalty amount is being assessed. |  |  |
|-------|--|--|--|

|                        |                 |
|------------------------|-----------------|
| <b>PAYABLE PENALTY</b> | <b>\$20,000</b> |
|------------------------|-----------------|

Screening Date 10-Jun-2011

Docket No. 2011-0934-AIR-E

PCW

Respondent David Longoria Trucking & Construction, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41814

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106144363

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 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 ( <i>number of judgements or consent decrees meeting criteria</i> )                              | 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 ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 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 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 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)** 0%

#### >> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

Screening Date 10-Jun-2011

Docket No. 2011-0934-AIR-E

PCW

Respondent David Longoria Trucking & Construction, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41814

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106144363

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain authorization prior to conducting rock crushing operations. Specifically, during an investigation that started on April 7, 2011, it was documented that the Respondent operated a Terex Pegson rock crusher, Serial No. 41-04870/420168CLSR, at the Saenz Pit on April 8, 2011 and April 12, 2011 without authorization to operate the unit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 0%      |
| Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Harm  |          |       | Percent |
|---------------|-------|----------|-------|---------|
|               | Major | Moderate | Minor |         |
|               | x     |          |       | 100%    |

Matrix Notes

The Respondent failed to comply with 100% of the rule requirement, however, pursuant to Tex. Water Code § 7.052(b), a rock crusher operating without permit authorization is penalized \$10,000 for each day that a continuing violation occurs.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 2 Number of violation days 2

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        | x |
|                         | weekly       |   |
|                         | monthly      |   |
|                         | quarterly    |   |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

Violation Base Penalty \$20,000

Two daily events are recommended for each day the rock crusher was documented to have been operated without authorization (April 8, 2011 and April 12, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

No reduction is being offered since a mandatory statutory penalty amount is being assessed.

Violation Subtotal \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$20,000

This violation Final Assessed Penalty (adjusted for limits) \$20,000

# Economic Benefit Worksheet

**Respondent** David Longoria Trucking & Construction, L.L.C.

**Case ID No.** 41814

**Reg. Ent. Reference No.** RN106144363

**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 |     |
| 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             | \$1,500 | 24-Mar-2011 | 20-Apr-2011 | 0.07 | \$6 | n/a | \$6 |
| Other (as needed)        |         |             | 0.00        | \$0  | n/a | \$0 |     |

Notes for DELAYED costs

Estimated cost to obtain a Tier I Standard Permit for the rock crusher. The date required is the earliest documented date of the violation. The final date is the compliance date.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$6

# Compliance History

Customer/Respondent/Owner-Operator: CN603854282 David Longoria Trucking and Construction, L.L.C. Classification: Rating:

Regulated Entity: RN106144363 SAENZ PIT CRUSHER Classification: Site Rating:

ID Number(s): PORTABLE ROCK CRUSHER

Location: ON CR 211 APPROXIMATELY 0.1 MILE SOUTH OF THE INTERSECTION WITH FM 2295, DUVAL COUNTY, TX

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: June 15, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 15, 2006 to June 15, 2011

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

Name: Rebecca Johnson Phone: (361) 825-3423

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DAVID LONGORIA TRUCKING &  
CONSTRUCTION, L.L.C.  
RN106144363

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2011-0934-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 David Longoria Trucking & Construction, L.L.C. ("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 operated a portable rock crusher at the Saenz Pit located on County Road 211, approximately 0.1 mile south of the intersection with Farm-to-Market Road 2295, Duval 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 May 31, 2011.
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 Twenty Thousand Dollars (\$20,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Seventy-Four Dollars (\$1,674) of the administrative penalty. The remaining amount of Eighteen Thousand Three Hundred Twenty-Six Dollars (\$18,326) of the administrative penalty shall be payable in eleven monthly payments of One Thousand Six Hundred Sixty-Six Dollars (\$1,666) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures:
  - a. Obtained authorization to operate the rock crusher under a Tier I Standard Permit for Temporary Rock Crushers on April 20, 2011; and
  - b. Ceased operation of the rock crusher on May 6, 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As operator of the Plant, the Respondent is alleged to have failed to obtain authorization prior to conducting rock crushing operations, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation that started on April 7, 2011. Specifically, the Respondent operated a Terex Pegson rock crusher, Serial No. 41-04870/420168CLSR, at the Saenz Pit on April 8, 2011 and April 12, 2011 without authorization to operate the unit.

## 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: David Longoria Trucking & Construction, L.L.C., Docket No. 2011-0934-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 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.
3. 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.
4. 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.

5. 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.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

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

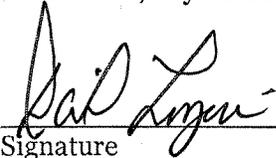
11/3/11  
\_\_\_\_\_  
Date

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

9/9/2011  
\_\_\_\_\_  
Date

David Longoria  
\_\_\_\_\_  
Name (Printed or typed)

President  
\_\_\_\_\_  
Title

Authorized Representative of  
David Longoria Trucking & Construction, L.L.C.

**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.