

**Executive Summary – Enforcement Matter – Case No. 43262**  
**Eagle Railcar Services - Roscoe, Inc.**  
**RN100218296**  
**Docket No. 2012-0060-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

N/A

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

Eagle Railcar Services Roscoe, 45 Loop 544 in Roscoe, Nolan County

**Type of Operation:**

Railcar refurbishing

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 6, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$44,000

**Amount Deferred for Expedited Settlement:** \$8,800

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

**Total Paid to General Revenue:** \$35,200

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 43262  
Eagle Railcar Services - Roscoe, Inc.  
RN100218296  
Docket No. 2012-0060-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** October 27, 2011  
**Date(s) of NOE(s):** December 7, 2011

***Violation Information***

1. Failed to submit a permit renewal application for the surface coating operations prior to the expiration of the permit. Specifically, the Respondent did not renew Permit No. 42087 before the expiration date of February 15, 2011, and continued to conduct surface coating operations [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518].
2. Failed to submit a permit renewal application for the railcar cleaning and degassing operations prior to the expiration of the permit. Specifically, the Respondent did not renew Permit No. 21534 before the expiration date of March 23, 2009 and continued to conduct railcar cleaning and degassing operations [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

1. On October 27, 2011, the Respondent submitted permit applications for the surface coating and railcar cleaning and degassing operations.

**Technical Requirements:**

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit applications submitted on October 27, 2011, within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 180 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance.

**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

**Executive Summary – Enforcement Matter – Case No. 43262**  
**Eagle Railcar Services - Roscoe, Inc.**  
**RN100218296**  
**Docket No. 2012-0060-AIR-E**

**TCEQ Enforcement Coordinator:** Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, 713-767-3629; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.

**TCEQ SEP Coordinator:** N/A

**Respondent:** Joe L. Walraven, President, P.O. Box 1534, Eastland, Texas 76448  
Kevin Tate, Plant Manager, Eagle Railcar Services - Roscoe, Inc., P.O. Box 729, Roscoe, Texas 79545-0729

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	12-Dec-2011	<b>Screening</b>	20-Dec-2011	<b>EPA Due</b>	
	<b>PCW</b>	11-Jan-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Eagle Railcar Services - Roscoe, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100218296
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	43262	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-0060-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Nadia Hameed
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$44,000
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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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,133
Approx. Cost of Compliance	\$10,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$44,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$44,000

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$44,000
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$8,800
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$35,200
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Screening Date 20-Dec-2011

Docket No. 2012-0060-AIR-E

PCW

Respondent Eagle Railcar Services - Roscoe, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43262

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218296

Media [Statute] Air

Enf. Coordinator Nadia Hameed

### 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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 20-Dec-2011

Docket No. 2012-0060-AIR-E

PCW

Respondent Eagle Railcar Services - Roscoe, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43262

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218296

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 1

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

Violation Description Failed to submit a permit renewal application for the surface coating operations prior to the expiration of the permit. Specifically, the Respondent did not renew Permit No. 42087 before the expiration date of February 15, 2011, and continued to conduct surface coating operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100 percent of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 11 Number of violation days 308

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

Violation Base Penalty \$11,000

Eleven monthly events are recommended, from the date of permit expiration on February 15, 2011 to December 20, 2011, screening date.

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 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$329

Violation Final Penalty Total \$11,000

This violation Final Assessed Penalty (adjusted for limits) \$11,000

# Economic Benefit Worksheet

**Respondent** Eagle Railcar Services - Roscoe, Inc.

**Case ID No.** 43262

**Req. Ent. Reference No.** RN100218296

**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
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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	15-Feb-2011	9-Jun-2012	1.32	\$329	n/a	\$329
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost for obtaining a permit. The Date Required is the permit expiration date. The Final Date is the expected date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$5,000

**TOTAL**

\$329

Screening Date 20-Dec-2011

Docket No. 2012-0060-AIR-E

PCW

Respondent Eagle Railcar Services - Roscoe, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43262

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218296

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Violation Number 2

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

Violation Description

Failed to submit a permit renewal application for the railcar cleaning and degassing operations prior to the expiration of the permit. Specifically, the Respondent did not renew Permit No. 21534 before the expiration date of March 23, 2009 and continued to conduct railcar cleaning and degassing operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100 percent of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 33

1002 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$33,000

Thirty-three monthly events are recommended, from the permit expiration date of March 23, 2009 to December 20, 2011, screening date.

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 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$33,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$804

Violation Final Penalty Total \$33,000

This violation Final Assessed Penalty (adjusted for limits) \$33,000

## Economic Benefit Worksheet

**Respondent** Eagle Railcar Services - Roscoe, Inc.

**Case ID No.** 43262

**Req. Ent. Reference No.** RN100218296

**Media** Air

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	23-Mar-2009	9-Jun-2012	3.22	\$804	n/a	\$804
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for obtaining a permit. The Date Required is the permit expiration date. The Final Date is the date of expected compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$804

# Compliance History

Customer/Respondent/Owner-Operator: CN603194341 Eagle Railcar Services - Roscoe, Inc. Classification: AVERAGE Rating: 1.50

Regulated Entity: RN100218296 EAGLE RAILCAR SERVICES ROSCOE Classification: HIGH

Site Rating: 0.00

ID Number(s):

AIR NEW SOURCE PERMITS	PERMIT	8822
AIR NEW SOURCE PERMITS	REGISTRATION	43354
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	ND0035K
AIR NEW SOURCE PERMITS	AFS NUM	4835300013
AIR NEW SOURCE PERMITS	REGISTRATION	41919
AIR NEW SOURCE PERMITS	PERMIT	99325
AIR NEW SOURCE PERMITS	PERMIT	99296
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD093191765
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	38049
PRETREATMENT	EPA ID	TXU500178
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	ND0035K

Location: 45 LOOP 544, ROSCOE, NOLAN COUNTY, TX

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: January 09, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 09, 2007 to January 09, 2012

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

Name: 713-767-3629 Phone: Nadia Hameed

## 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/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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

## 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.)

- 1 05/31/2007 (560544)
- 2 05/31/2007 (562502)
- 3 05/24/2011 (915247)
- 4 12/07/2011 (968498)

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  
EAGLE RAILCAR SERVICES -  
ROSCOE, INC.  
RN100218296**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-0060-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 Eagle Railcar Services - Roscoe, 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a railcar refurbishing plant located at 45 Loop 544 in Roscoe, Nolan 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 December 12, 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 Forty-Four Thousand Dollars (\$44,000) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Thirty-Five Thousand Two Hundred Dollars (\$35,200) of the administrative penalty and Eight Thousand Eight Hundred Dollars (\$8,800) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on October 27, 2011, the Respondent submitted permit applications for the surface coating and railcar cleaning and degassing operations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit a permit renewal application for the surface coating operations prior to the expiration of the permit, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518, as documented during an investigation conducted on October 27, 2011. Specifically, the Respondent did not renew Permit No. 42087 before the expiration date of February 15, 2011, and continued to conduct surface coating operations.
2. Failed to submit a permit renewal application for the railcar cleaning and degassing operations prior to the expiration of the permit, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518, as documented during an investigation conducted on October 27, 2011. Specifically, the Respondent did not renew Permit No. 21534 before the expiration date of March 23, 2009 and continued to conduct railcar cleaning and degassing operations.

### 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: Eagle Railcar Services - Roscoe, Inc., Docket No. 2012-0060-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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit applications submitted on October 27, 2011, within 30 days after the date of such requests, or by any other deadline specified in writing; and
  - b. Within 180 days after the effective date of this Agreed Order, submit written certification that authorization to operate has been obtained or that operations have ceased until such time that authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification 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  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

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 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

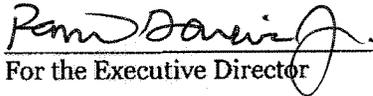
accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile 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.

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

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

8/23/12  
\_\_\_\_\_  
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

8/13/12  
\_\_\_\_\_  
Date

Joe L. Walraven  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Eagle Railcar Services - Roscoe, Inc.

President  
\_\_\_\_\_  
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.