

**SOAH DOCKET NO. 582-08-0523**  
**TCEQ DOCKET NO. 2007-0768-AIR-E**

**EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY,  
PETITIONER  
VS.  
ADVANTAGE ASPHALT PRODUCTS,  
LTD.  
RN104955497,  
RESPONDENT**

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**BEFORE THE  
  
STATE OFFICE OF  
  
ADMINISTRATIVE HEARINGS**

**THE EXECUTIVE DIRECTOR'S REPLY TO THE RESPONDENT'S EXCEPTIONS**

The Executive Director ("ED") of the Texas Commission on Environmental Quality files the following reply to Advantage Asphalt Products, Ltd.'s (Respondent's or Advantage Asphalt's) exceptions.

**The Respondent Mischaracterizes the Facts**

1. On March 1-2, 2007, TCEQ investigator Joseph Campa, while conducting an investigation of another entity, discovered Advantage Asphalt operating a rock crusher at the Irlbeck Site and proceeded to conduct an on-site investigation of that site. (ED Ex. 1: Investigation Report.)<sup>1</sup> Mr. Campa noted that, according to TCEQ records, Advantage Asphalt was not authorized to operate a rock crusher at the Irlbeck Site at the time of the investigation. (ED Ex. 1 at 2.)<sup>2</sup>
2. Specifically, Advantage Asphalt obtained an Air Quality Standard Permit for Temporary Rock Crushers and Temporary Concrete Crushers, Tier II ("Standard Permit") for the Irlbeck Site on December 19, 2005. (ED Ex. 5.)

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<sup>1</sup> References to the exhibits submitted with this case will use the following notation, "[party] ED Ex. [no.] at [page]: [description].", the short form of "Exhibit" being "ED Ex." Descriptions will be included only as helpful, in the opinion of the author.

<sup>2</sup> As discussed in the investigation report, TCEQ records reflected that Advantage Asphalt had a permitted crusher at a different Site, the BFI Site, but not the Irlbeck Site. (ED Ex. 1 at 2.)

A Standard Permit expires after a crusher is located at the site for 180 non-consecutive days or operates 1080 hours, whichever occurs first. (ED Ex. 5 at 5: Standard Permit, section (3)(E).)

3. Additionally, the permit requires notification to the TCEQ if the crusher is moved off the site and then later returned to the site. (ED Ex. 5 at 5: Standard Permit, section (3)(F) and (G).) Moreover, the notification is required to contain the permit holder's previous duration at the site in order to "show compliance" with the 180 non-consecutive days and 1080 operating hours limitation. (ED Ex. 5 at 5: Standard Permit, section (3)(E) and (F).) Advantage Asphalt had not notified the TCEQ that it had moved and returned to the Irlbeck Site. (See, e.g., ED Ex. 4: Interrogatory No. 1.)
4. The date of the March 2007 investigation was over 430 days<sup>3</sup> after the date of the permit authorization of December 19, 2005, approximately 250 days over the 180 day limit; thus, the permit necessarily would have expired—unless Advantage Asphalt had moved the crusher from the site and returned. Mr. Campa noted that the TCEQ had not received any notification that Advantage Asphalt had returned to the Irlbeck Site, as required by the permit if the rock crusher were relocated to the site. (ED Ex. 1 at 2.) Based on this information, Mr. Campa documented a violation for failure to have a permit for rock crushing activities at the Irlbeck Site. (ED Ex. 1 at 3.) This violation has a mandatory penalty of \$10,000 per day. TEX. WATER CODE § 7.052(b).

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<sup>3</sup> Advantage Asphalt originally obtained a Standard Tier I Permit, on date November 14, 2005, and later converted the permit to a Tier II permit. Its Tier II permit was approved on December 19, 2005. (ED Ex. 5 at 1.) For the purposes of calculating the number of days and hours that Advantage Asphalt was operating at the site, according to the permit, the amount of time under the Tier I is included. (ED Ex. 5 at 1.)

5. In response to this alleged violation, Advantage Asphalt asserted that during the time period between the issuance of the Standard Permit for the Irlbeck Site and the investigation date, it had moved its crusher to the BFI Site and then relocated to the Irlbeck Site. (ED Ex. 3 at 3-4; Request for Admission Nos. 1-11; and ED Ex. 12: Letter from Advantage Asphalt consultant to the TCEQ.) Advantage Asphalt maintained it did not have a crusher at the Irlbeck Site continuously since 2005 and had not exceeded the 180 day limit or the operating time limit of 1080 hours. (*Id.*) Advantage Asphalt claimed it moved a crusher to and from the Irlbeck Site during the approximately 430 day period. (*Id.*)
6. Advantage Asphalt admits it did not provide the notification required when returning to a site. (ED Ex. 3: Request for Admission Nos. 5, 9, 11, and 14; ED Ex. 4: Interrogatory No. 10; and ED Ex. 12.) Advantage Asphalt admits it relocated to the Irlbeck Site and the BFI Site four times without notifying the TCEQ as required by the Standard Permit. (ED Ex. 3: Request for Admission Nos. 5, 9, 11, and 14; ED Ex. 4: Interrogatory No. 10; and ED Ex. 12.) As such, the investigator may have never had an opportunity to investigate the site during operations if he had not happened upon the site since there was no TCEQ record of the Respondent being authorized at that site after approximately June 17, 2006.
7. To further support its claims and in its discovery responses, Advantage Asphalt provided its daily records for the Irlbeck Site and the BFI Site from November 2005 through November 2009. (ED Ex. 4 at 3: Interrogatory No. 3; ED Ex. 19; *see also* Exs. 8-11: example records.) The records did not

contain the number of operating hours at the site. (ED Ex. 4 at 4: Interrogatory No. 8; ED Exs. 8-11 and 19: daily records.) Records of operating hours are essential to ensure Advantage Asphalt complied with the 1080 operating hours limit of the Standard Permit, and thus, to ensure its authorization was still valid at each site. (ED Ex. 5: sections (1)(M), (3)(E), (3)(F) and (3)(G).) Moreover, the records did not contain other required information to ensure compliance with its permits.<sup>4</sup> (Exs. 5 and 6: section (M); ED Exs. 8-11, and 19.)

8. After a review of Advantage Asphalt's daily records and other discovery responses, the ED amended the petition to include the following four violations:

- (1) a violation for failure to provide notice to the TCEQ when moving back to a permitted rock crusher site;
- (2) a violation for failure to maintain operating hours records for the Irlbeck Site as required in the Standard Permit;
- (3) a violation for failure to maintain operating hours for the BFI Site as required in the Standard Permit; and
- (4) a violation for failing to maintain other records required by the permits.

(ED Ex. 17: the Petition.) Advantage Asphalt's own records and representations establish the four violations in this case.

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<sup>4</sup>For example, the Standard Permits require the records of the throughput per hour of the feed hopper. (See ED Ex. 5: section (1)(M)(ii)). Advantage Asphalt's records do not have this information. (ED Exs. 8-11 and 19.)

**Respondent's claim that it was not  
required to produce records is incorrect.**

9. The Respondent objects to the use of its own records which establish the violations. The Respondent produced records as required in discovery under the Texas Rule of Civil Procedure 196.3(a), and in an effort to demonstrate that it was authorized to operate, and thereby avoid a \$10,000 per day mandatory penalty. See [cite]. There is no basis for claiming the Respondent's required document production is not proper as evidence.

**There was no new Tier II permit issued March 2007, and even if there were, the permit prohibits the use of a new Tier II permit for 365 days after vacating the Site, and the Respondent had not vacated the Site.**

10. The Respondent misstates that a new Tier II permit was issued in March 2007, and even if so, it is irrelevant because the permit prohibits the Respondent from using a new Tier II within 365 days of using a prior Tier II at the same location. According to the investigation report:

Mr. Braudt [Respondent's representative] submitted **the request for authorization to move** on March 12, 2007 and an authorization letter was faxed to Mr. Braudt on March 14, 2007 at 10:38 a.m. (emphasis added)

(ED Ex. 1 at 2.) Additionally, the Respondent has admitted that in March 2007, it received an authorization to move, not a new permit. (See, e.g., ED Ex. 3 at 4: admission no. 11 and 12.) Thus, authorization to move under the Tier II issued in December 2005 is what was granted in March 14, 2007.

11. Even if a new Tier II permit had been issued, the Respondent was prohibited from using it. According to the Tier II permit, the Respondent is not permitted to use a new Tier II permit at the same site as a prior Tier II for at least 365 days after the prior permit expires. The permit states:

Once the operating hours (1080) or calendar days (180) for the site have been exhausted and the site has been vacated, ***the owner or operator shall not use a standard permit to locate any crusher on the site for at least 365 days . . . .*** (emphasis added)

(ED Ex. 5 at 11: Standard Permit, section (3)(F), last sentence.)

12. Therefore, even if there was a new Tier II permit, the Respondent was prohibited from using it at the Irlbeck Site, since the Respondent was at the Irlbeck Site under a prior Tier II permit just a few days before it received the alleged "new permit" it claims it received. Specifically, the Respondent was at the Irlbeck Site on March 1 and 2, 2007 and claims it was authorized under the Tier II permit issued December 19, 2005 (a prior Tier II permit). (See, e.g., ED Ex. 1 at 2; Ed Ex. 2 at e: response to request for disclosure no. 3.) Since the Respondent was at the Irlbeck Site under a Tier II permit on March 1 and 2, 2007, it could not use a new Tier II permit just a few days later, March 14, 2007, to relocate back to the Irlbeck Site. To use a new Tier II permit, the Respondent would have had to vacate the Irlbeck Site for at least 365 days from March 2, 2007, or until March 3, 2008.
13. This is a red herring claim made by the Respondent. The Respondent was operating under a Tier II permit until the NSR Permit was issued on August 3, 2007. (ED Exhibit 7.) The Respondent admits that it was not keeping hours of operation as of 2009, well after 2007, and never could demonstrate compliance with the operation hour limitation of the Tier II permit. (ED Ex. 4 at 4, 7: Interrogatory No. 6 response and verification page with date.) Whether there was a new Tier II permit does not change the violations or penalty.

**The Respondent's claim that he revised his record keeping in January 2007 and meets the criteria for good faith is without merit.**

14. The Respondent does not meet the good faith criteria. The Respondent's sole basis for claiming a good faith reduction is a set of records that Respondent produced in April 2010; Respondent maintains these records cover January 2007 through August 2007 and demonstrate that the

Respondent was recording hours of operation. (R's Ex. 1). These records did not overcome the weight of the other evidence in the record, as noted by the ALJ in footnote 8 of the ALJ's Proposal For Decision (PFD). Footnote 8 states:

These records have limited credibility because they were not produced until May 2010 (2007 records), and Respondent could not identify who prepared them; when they were prepared; or where they were prepared.

15. The records represent a second set of records (Second Set) covering the same time period as a prior set of records provided by the Respondent. There were inconsistent with prior records and representations of the Respondent. (See, e.g., See, e.g. ED Ex. 4: response to Interrogatory Nos. 6, 8 on August 11, 2009 (Respondent states that Respondent does not record hours of operation); ED Ex. 19 at 1-214.) Further, the Respondent did not provide any evidence of personal knowledge regarding the Second Set.
16. The Second Set is inconsistent with the other exhibits in the record. Originally, to support the Respondent's claim that it was authorized at the Irlbeck Pit, it produced a chart (Chart) of the days of operation with "Approximate Tons Crushed" and "Average Hours Crushed". (ED Ex. 4: Exhibit 3 to the Respondent's original discovery response.) This Chart states that hours were determined by an "average" instead of actual hours, as required by the permit:
17. After the ED asked for the records supporting the Chart, the Respondent ultimately produced records covering November 22, 2005 through August 10, 2009. (ED Ex. 19.) This includes records covering January 2007-August 2007, the time covered by the Second Set. (ED Ex. 19 at 192-214.) In this set of records (First Set), there were no records of hours of operation, (ED Ex. 8,9; ED Ex. 19 at 1-214), and no records at all for the time period between March 26, 2007 and September 13, 2007. (ED Ex. 19 at 192-214). In response to the ED's inquiry about these missing dates, the Respondent filed amended discovery responses dated August 11, 2009, with the following explanation:

On 3/26/07 the crusher was relocated to the Yard while Respondent applied for and received a P11 permit. The crusher was then taken to BFI on 9/14/07.

(ED Ex. 4: response to Request for Production Nos. 10, 13, 14.) Additionally, as of August 11, 2009, well after January 2007, the Respondent stated that it did not keep hours of operation as required by the permit. (See, e.g., ED Ex. 4: response to Interrogatory Nos. 6, 8.) Mr. Knutson is the only person that has verified discovery responses, testified or provided any affidavits. It does not make sense that he would admit in 2009 that the Respondent does not keep hours of operation, and then in paragraph 23 of the Respondent's exceptions, state that the Respondent's 2007 records "clearly demonstrate that substantial efforts were taken in January 2007 to correct record-keeping deficiencies... ."

18. Additionally, it is concerning that the Second Set of Records provides inconsistent information from the First Set, and contains dates of operation without authorization. According to the First Set of records, which Advantage Asphalt produced in order to show he had not exceeded the 180 day limitation of the Standard Permit for Irlbeck, Advantage Asphalt was located at the Irlbeck Site for 173 days, and the permit limit is 180. (See Chart; ED Ex. 19; see also ED Ex. 4: response to Request for Production Nos. 10, 13, 14 (Respondent claims it was not at the Irlbeck Site between March 26 until authorized to return to the site on September 14, 2007<sup>5</sup>).
19. According to the Second Set of records, provided in 2010 by Respondent to show that hours of operation were kept, the Respondent actually was located at the Irlbeck Site during the time period between March 26, 2007 and September 13, 2007, contrary to the prior claim that the crusher was moved to the "Yard" and then to "BFI" until September 14, 2007. According to the Second Set of records, there was a crusher located at the Irlbeck Site and crushing from March 26, 2007 through September 5. (R's Ex. 1: page stamped numbers 240-309b.) Consequently, according to the Second Set of records, the Respondent was located at the Irlbeck Site for 344 days, 164

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<sup>5</sup> After the expiration of the Standard Permit for the Irlbeck Site, the Respondent obtained authorization, through an NSR permit, on September 14, 2007. (ED Ex. 20.)

over the 180 day limit; this would result in a mandatory penalty of \$1,640,000. (Attached is a calculation of the days based on the Respondent's Chart and two sets of records.) A calculation of the hours of operation, to determine if the Respondent exceeded the 1080 hour limit, cannot be made since the Respondent did not record hours of operation.

20. There was no testimony from a person with knowledge that testified how these records were created. Mr. Knutson, the Respondent's only witness, admitted he did not create them or even know about them until 2010. Consistent with Mr. Knutson's admissions, they could be estimates and not actual hours of operation, or could have been created after the fact innocently to please Mr. Knutson, without even him knowing. There is insufficient evidence of reliability regarding these documents, as stated in footnote 8 of the PFD.
21. Because the Second Set of records do not establish that the Respondent kept actual hours, instead of estimates as admitted in 2009, they are not grounds for a good faith reduction.

**The Respondent's assertions regarding the penalty calculation for violations 2 and 3 are not consistent with the Penalty Policy; the penalty calculation recommended by the ALJ is in accordance with the Penalty Policy.**

22. The Respondent complains of the penalties associated with violation 2 and 3 because the Respondent claims that a crusher was not on the sites for the entire time the site was permitted; therefore, the Respondent reasons, it should get some type of time credit for the time the Respondent claims the crusher was not on the site.
23. Violations two and three are the same violation, each for a different site. Violation two is for the failure to keep records of hours of operation at the Irlbeck Site. (ED Ex. 17 at 3, para. 5.b.; ED Ex. 14 at 5.) Violation three is for failure to keep records of hours of operation at the BFI Site. (ED Ex. 17

at 3, para. 5.c.; ED Ex. 14 at 7.) The penalty for these violations was calculated in accordance with the Penalty Policy.

24. The enforcement coordinator for this case, Mr. James Nolan, testified that the appropriate Violation Base Penalty for violation two is \$21,000. (ED-14 at 5: PCW.) He testified that this amount was determined by applying the TCEQ Penalty Policy. He also testified that the calculated Violation Base Penalty of \$21,000 is consistent with other penalty calculations for similar violations.
25. The Respondent claims that the Violation Base Penalty of \$21,000 is too high because of the Number of Violation Events in the penalty calculation. The Respondent is mistaken.
26. Mr. Mike Gould, an expert on rock crusher permits, testified that not keeping hours of operation, either in part or in whole, makes it impossible to determine if the Respondent is still authorized under the Standard Permit. This is because the Standard Permit has a 1080 operating hour limitation. A rule violated in violation 2 is 30 Tex. Admin. Code § 116.615(8) which requires permit holders to keep "information and data sufficient to demonstrate . . . compliance" with the permit. Mr. Gould testified that if a holder of a Tier II permit does not keep hours of operation, in part or in whole, then the permit holder cannot demonstrate compliance with the 1080 operating hour limitation in the permit, and therefore the permit holder is in violation of this provision. He went on to testify that the permit holder would be in violation for the entire term of the permit. The permit holder would never be able to demonstrate that his total hours of operation are less than 1080 because he did not keep track of all hours.

27. Consistent with Mr. Gould, Mr. Nolan testified that this violation is appropriately categorized as a continual violation instead of discrete for the same reasons discussed by Mr. Gould. Consistent with Mr. Gould's testimony, the timeframe of the violation, for purposes of calculating a penalty, is for the entire time that the Respondent operated under the Standard Permit.
28. Mr. Nolan also testified that the Violation Base Penalty is a conservative calculation according to the TCEQ Penalty Policy. This violation is a programmatic major violation because the Respondent violated 100% of the rule; this is consistent application of the Penalty Policy. (ED 14 at 5.) As such, it can be assessed up to daily. (ED 15 at 10: Penalty Policy section on continuing violations.) In this case, the calculation is done monthly instead of daily, which results in a lower penalty. In determining the number of events, the Penalty Policy states:

To determine the number of events, divide the appropriate time frame into the duration of the violation. For this determination, any part of a day equals a "day": **any part of a month equals a "month"**; any part of a quarter equals a "quarter". For example[,] an actual minor that is assessed as a quarterly event will have 5 quarters for a violation that continued for 13 months. (emphasis added)

(ED 15 at 10.) That is exactly how the Number of Violation Events was determined in this case. By dividing a month, which is considered 30 days in TCEQ practice, by the number of violation days, 615, the total is 21 months, or 21 Violation Events.

29. Mr. Nolan also explained that even if the calculation was based on discrete events, instead of a continuing violation, the penalty would actually be much higher. Regarding discrete events, the Penalty Policy states:

Certain violations will typically be considered discrete. For these violations, **one penalty event will be assessed for every documented observation.** (emphasis added)

(ED 15 at 9.) For example, even if there were only 30 days in which the Respondent failed to record hours of operation, under a discrete analysis, this would be a penalty event for each missing record, or 30 penalty events, for a Violation Base Penalty of \$30,000. However, in this case, this violation is calculated at 21 penalty events for a Violation Base Penalty of \$21,000, which makes the penalty less than if there were 30 discrete events.

Consequently, if there were even more than 30 days of missing records, the Violation Base Penalty would be even higher if calculated as discrete events; Advantage Asphalt failed to keep hours of operation for may more days than 30. (See, e.g., ED Ex. 19.)

30. Mr. Gould testified that recording hours of operation is "critical" for the Standard Permit due to the 1080 operating hour limitation. Recording all operating hours is the only way for the TCEQ and the permit holder to know if the permit has expired and the operations are therefore unauthorized.<sup>6</sup>
31. Given the nature, circumstances, extent, duration, gravity, need for deterrence as well as the other factors discussed above and contained in

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<sup>6</sup> Operating a rock crusher without authorization is a mandatory \$10,000 a day penalty, which is the most severe penalty authorized by the legislature. See TEX. WATER CODE §7.052(b). Given the consequences of operating beyond the permit limitations, appropriate deterrence is necessary to deter violations for failure to keep records to demonstrate compliance with the permit limitations. See TEX. WATER CODE §7.053(3)(E).

section 7.053 of the Texas Water Code, the reasonable and necessary Violation Base Penalty for violation two is \$21,000.

32. As stated above, violation three is the same as violation two except violation three involves a different location, the BFI Site. (ED Ex. 17 at 3, para. 5.c.; ED Ex. 14 at 7.) Additionally, the number of violation days for purposes of calculating the penalty is shorter for this violation than violation two, because the term of this Standard Permit is shorter. This violation has 420 violation days, or 14 monthly violation events, so the Violation Base Penalty is \$14,000.
33. Because this violation is the same as violation two, the ED incorporates the discussion above explaining the calculation of the penalty for violation 2 to avoid repeating the same information here.
34. For the same reasons discussed above, the reasonable and necessary Violation Base Penalty for violation three is \$14,000.
35. The Respondent ignores the parts of violation 2 and 3 which pertain to the Respondent's failure to keep records to demonstrate compliance with the operating hour limitation of 1080. This is a requirement throughout the term of the permit. These violations were properly characterized as continuous instead of discrete, and calculated in accordance with the Penalty Policy.
36. What the Respondent proposes is to ignore the Penalty Policy's treatment of discrete as well as continuous violations. It seems as if he is asking the Commission to parcel out individual days and add them together to determine a number of months. This is not consistent with the Penalty Policy treatment of either discrete or continuous violations. To clarify, the ED is not

requiring the Respondent keep hours of operation on days when there are no operations. The ED is stating that throughout the term of the permit that the Respondent wants the benefit of the permit, the Respondent must be able to demonstrate compliance with the 1080 hour limitation, which the Respondent was never able to do.

37. Because the Respondent admits that operation hours were not kept at the site, (see *e.g.*, ED Ex. 4 at 4: Interrogatory Nos. 4 and 6) and because the Respondent does not dispute the term of the permit, the proposed penalty is appropriate.

**Respondent's calculations in paragraph 6 and 9  
of its exceptions are not complete.**

38. First, in paragraph 6, the Respondent claims that "from December 2005 to March 2007, the crusher operated a total of 115 non-consecutive days." To clarify, the first date that a crusher was located and/or operating at the site is the starting date for purposes of calculating the number of days authorized under the permit; and according to the Respondent's records, the first date was November 22, 2005—not December 2005. (ED Ex. 19 at 1.) The ED makes this clarification for the purpose of consistent calculation of days authorized by the Standard Permits. Advantage Asphalt originally obtained a Standard Tier I Permit, on date November 14, 2005, and later converted the permit to a Tier II permit. Its Tier II permit was approved on December 19, 2005. (Ex. 5 at 1.) For the purposes of calculating the number of days and hours that Advantage Asphalt was operating at the site, according to the permit, the amount of time under the Tier I is included. (Ex. 5 at 1.)

39. The Respondent also states that a crusher was "located at Irlbeck for only 14 months". The ED is not sure where the Respondent gets this calculation. Assuming it is true, 14 months is approximately 420 days (14 X 30), well over the 180 day permit limit. Yet the Respondent has maintained throughout this case that it was authorized, therefore within the 180 day limit.
40. Similarly, in paragraph 9, the Respondent states that a crusher "was located at BFI for only 9 months". The basis for this calculation is not given. Assuming it is true, 9 months is approximately 270 days (14 X 30), also well over the 180 day permit limit.

#### **Prayer**

For these reasons, the ED respectfully requests the ALJ and not recommend and the Commission not adopt the Respondent's exceptions.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery  
Executive Director

Stephanie Bergeron Perdue, Deputy Director  
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by



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## CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2011, the foregoing original document and seven (7) copies were filed with the Chief Clerk, additionally the document was electronically filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day true and correct copies of the foregoing document were served to the following persons by the method of service indicated:

The Honorable Stephen J. Pacey  
State Office of Administrative Hearings  
William P. Clements Building  
300 West 15 th Street, Suite 504  
Austin, Texas 78701-1649

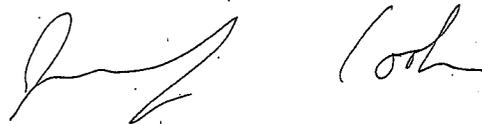
**Via Facsimile**

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Office of the Public Interest Counsel  
Texas Commission on Environmental Quality  
Mail Code 103

**Via Electronic Delivery**



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Jennifer Cook

<b>Days Located at Irlbeck Pit</b>			
<b>Date</b>	<b>Days using First Set of records</b>	<b>Days using Second Set of records</b>	
14-Sep-06	145	145	(35 Days left at site as represented by Chart from Respondent)
1-Jan-07	0	0	
2-Jan-07	0	0	
3-Jan-07	0	0	
4-Jan-07	0	0	
5-Jan-07	0	0	
6-Jan-07	0	0	
7-Jan-07	0	0	
8-Jan-07	0	0	
9-Jan-07	0	0	
10-Jan-07	0	0	
11-Jan-07	0	0	
12-Jan-07	0	0	
13-Jan-07	0	0	
14-Jan-07	0	0	
15-Jan-07	0	0	
16-Jan-07	0	0	
17-Jan-07	0	0	
18-Jan-07	0	0	
19-Jan-07	0	0	
20-Jan-07	0	0	
21-Jan-07	0	0	
22-Jan-07	0	0	
23-Jan-07	0	0	
24-Jan-07	0	0	
25-Jan-07	0	0	
26-Jan-07	0	0	
27-Jan-07	0	0	
28-Jan-07	0	0	
29-Jan-07	0	0	
30-Jan-07	0	0	
31-Jan-07	0	0	
1-Feb-07	0	0	
2-Feb-07	0	0	
3-Feb-07	0	0	
4-Feb-07	0	0	
5-Feb-07	0	0	
6-Feb-07	0	0	
7-Feb-07	0	0	
8-Feb-07	0	0	
9-Feb-07	0	0	
10-Feb-07	0	0	
11-Feb-07	0	0	
12-Feb-07	0	0	

Days Located at Irlbeck Pit		
Date	Days using First Set of records	Days using Second Set of records
13-Feb-07	0	0
14-Feb-07	0	0
15-Feb-07	0	0
16-Feb-07	0	0
17-Feb-07	0	0
18-Feb-07	0	0
19-Feb-07	0	1
20-Feb-07	0	1
21-Feb-07	0	1
22-Feb-07	0	1
23-Feb-07	0	1
24-Feb-07	0	1
25-Feb-07	0	1
26-Feb-07	0	1
27-Feb-07	1	1
28-Feb-07	1	1
1-Mar-07	1	1
2-Mar-07	1	1
3-Mar-07	1	1
4-Mar-07	1	1
5-Mar-07	1	1
6-Mar-07	1	1
7-Mar-07	1	1
8-Mar-07	1	1
9-Mar-07	1	1
10-Mar-07	1	1
11-Mar-07	1	1
12-Mar-07	1	1
13-Mar-07	1	1
14-Mar-07	1	1
15-Mar-07	1	1
16-Mar-07	1	1
17-Mar-07	1	1
18-Mar-07	1	1
19-Mar-07	1	1
20-Mar-07	1	1
21-Mar-07	1	1
22-Mar-07	1	1
23-Mar-07	1	1
24-Mar-07	1	1
25-Mar-07	1	1
26-Mar-07	1	1
27-Mar-07	0	1
28-Mar-07	0	1
29-Mar-07	0	1
30-Mar-07	0	1
31-Mar-07	0	1

<b>Days Located at Irlbeck Pit</b>		
<b>Date</b>	<b>Days using First Set of records</b>	<b>Days using Second Set of records</b>
1-Apr-07	0	1
2-Apr-07	0	1
3-Apr-07	0	1
4-Apr-07	0	1
5-Apr-07	0	1
6-Apr-07	0	1
7-Apr-07	0	1
8-Apr-07	0	1
9-Apr-07	0	1
10-Apr-07	0	1
11-Apr-07	0	1
12-Apr-07	0	1
13-Apr-07	0	1
14-Apr-07	0	1
15-Apr-07	0	1
16-Apr-07	0	1
17-Apr-07	0	1
18-Apr-07	0	1
19-Apr-07	0	1
20-Apr-07	0	1
21-Apr-07	0	1
22-Apr-07	0	1
23-Apr-07	0	1
24-Apr-07	0	1
25-Apr-07	0	1
26-Apr-07	0	1
27-Apr-07	0	1
28-Apr-07	0	1
29-Apr-07	0	1
30-Apr-07	0	1
1-May-07	0	1
2-May-07	0	1
3-May-07	0	1
4-May-07	0	1
5-May-07	0	1
6-May-07	0	1
7-May-07	0	1
8-May-07	0	1
9-May-07	0	1
10-May-07	0	1
11-May-07	0	1
12-May-07	0	1
13-May-07	0	1
14-May-07	0	1
15-May-07	0	1
16-May-07	0	1
17-May-07	0	1

Days Located at Irlbeck Pit		
Date	Days using First Set of records	Days using Second Set of records
18-May-07	0	1
19-May-07	0	1
20-May-07	0	1
21-May-07	0	1
22-May-07	0	1
23-May-07	0	1
24-May-07	0	1
25-May-07	0	1
26-May-07	0	1
27-May-07	0	1
28-May-07	0	1
29-May-07	0	1
30-May-07	0	1
31-May-07	0	1
1-Jun-07	0	1
2-Jun-07	0	1
3-Jun-07	0	1
4-Jun-07	0	1
5-Jun-07	0	1
6-Jun-07	0	1
7-Jun-07	0	1
8-Jun-07	0	1
9-Jun-07	0	1
10-Jun-07	0	1
11-Jun-07	0	1
12-Jun-07	0	1
13-Jun-07	0	1
14-Jun-07	0	1
15-Jun-07	0	1
16-Jun-07	0	1
17-Jun-07	0	1
18-Jun-07	0	1
19-Jun-07	0	1
20-Jun-07	0	1
21-Jun-07	0	1
22-Jun-07	0	1
23-Jun-07	0	1
24-Jun-07	0	1
25-Jun-07	0	1
26-Jun-07	0	1
27-Jun-07	0	1
28-Jun-07	0	1
29-Jun-07	0	1
30-Jun-07	0	1
1-Jul-07	0	1
2-Jul-07	0	1
3-Jul-07	0	1

<b>Days Located at Irlbeck Pit</b>		
<b>Date</b>	<b>Days using First Set of records</b>	<b>Days using Second Set of records</b>
4-Jul-07	0	1
5-Jul-07	0	1
6-Jul-07	0	1
7-Jul-07	0	1
8-Jul-07	0	1
9-Jul-07	0	1
10-Jul-07	0	1
11-Jul-07	0	1
12-Jul-07	0	1
13-Jul-07	0	1
14-Jul-07	0	1
15-Jul-07	0	1
16-Jul-07	0	1
17-Jul-07	0	1
18-Jul-07	0	1
19-Jul-07	0	1
20-Jul-07	0	1
21-Jul-07	0	1
22-Jul-07	0	1
23-Jul-07	0	1
24-Jul-07	0	1
25-Jul-07	0	1
26-Jul-07	0	1
27-Jul-07	0	1
28-Jul-07	0	1
29-Jul-07	0	1
30-Jul-07	0	1
31-Jul-07	0	1
1-Aug-07	0	1
2-Aug-07	0	1
3-Aug-07	0	1
4-Aug-07	0	1
5-Aug-07	0	1
6-Aug-07	0	1
7-Aug-07	0	1
8-Aug-07	0	1
9-Aug-07	0	1
10-Aug-07	0	1
11-Aug-07	0	1
12-Aug-07	0	1
13-Aug-07	0	1
14-Aug-07	0	1
15-Aug-07	0	1
16-Aug-07	0	1
17-Aug-07	0	1
18-Aug-07	0	1
19-Aug-07	0	1

Days Located at Irlbeck Pit		
Date		
	Days using First Set of records	Days using Second Set of records
20-Aug-07	0	1
21-Aug-07	0	1
22-Aug-07	0	1
23-Aug-07	0	1
24-Aug-07	0	1
25-Aug-07	0	1
26-Aug-07	0	1
27-Aug-07	0	1
28-Aug-07	0	1
29-Aug-07	0	1
30-Aug-07	0	1
31-Aug-07	0	1
1-Sep-07	0	1
2-Sep-07	0	1
3-Sep-07	0	1
4-Sep-07	0	1
5-Sep-07	0	1
<b>Total Days</b>	<b>173</b>	<b>344</b>
	180	180 Days authorized
	0	164 Days unauthorized