

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-2234-AIR-E **TCEQ ID:** RN101921989 **CASE NO.:** 32009
RESPONDENT NAME: Cotton Center Producers, Inc. dba United Gin Company

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: United Gin Company, 2501 South Highway 87, Lamesa, Dawson County</p> <p>TYPE OF OPERATION: Cotton ginning plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, San Antonio Regional Office, MC R-13, (210) 403-4006; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. James C. Seago, President, Cotton Center Producers, Inc., 2501 South Highway 87, Lamesa, Texas 79331 Mr. J. Kelley Green, Director of Technical Services, Texas Cotton Ginners' Association, 408 West 14th Street, Austin, Texas 78701-1619 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 16, 2006</p> <p>Date of NOE Relating to this Case: December 8, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failed to obtain a permit amendment prior to increasing annual cotton bale throughput above permitted limits of 30,000 bales resulting in an exceedance of the annual particulate matter (PM) emissions limit of 40.5 tons [30 TEX. ADMIN. CODE § 116.116(b)(1)(C) and § 116.115(b)(2)(F) and (c), New Source Review Permit No. 6616, Special Conditions 1 and 2, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$1,700</p> <p>Total Deferred: \$340 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,360</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Cotton Center obtained a permit amendment, approved on August 21, 2006, which increased cotton bale annual throughput limits to 45,000 and PM annual emissions limits to 60.67 tons.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	11-Dec-2006	Screening	19-Dec-2006	EPA Due	
	PCW	15-Dec-2006				

RESPONDENT/FACILITY INFORMATION			
Respondent	Cotton Center Producers, Inc. dba United Gin Company		
Reg. Ent. Ref. No.	RN101921989		
Facility/Site Region	7-Midland	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32009	No. of Violations	1	
Docket No.	2006-2234-AIR-E	Order Type	1660	
Media Program(s)	Air Quality	Enf. Coordinator	Trina Grieco	
Multi-Media		EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	(mark with x)

Notes

Total EB Amounts Subtotal 6
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date: 19-Dec-2006

Docket No.: 2006-2234-AIR-E

PCW

Respondent: Cotton Center Producers, Inc. dba United Gin Company

Policy Revision 2 (September 2002)

Case ID No.: 32009

PCW Revision December 8, 2006

Reg. Ent. Reference No.: RN101921989

Media [Statute]: Air Quality

Enf. Coordinator: Trina Grieco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement is due to Poor Performer Classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 19-Dec-2006

Docket No. 2006-2234-AIR-E

PCW

Respondent Cotton Center Producers, Inc. dba United Gin Company

Policy Revision 2 (September 2002)

Case ID No. 32009

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101921989

Media [Statute] Air Quality

Enf. Coordinator Trina Grieco

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.116(b)(1)(C) and 116.115(b)(2)(F) and (c), New Source Review Permit No. 6616, Special Conditions 1 and 2 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to obtain a permit amendment prior to increasing annual cotton bale throughput above permitted limits of 30,000 bales resulting in an exceedance of the annual PM emissions limit of 40.5 tons. Specifically, during the 2004-2005 and 2005-2006 ginning seasons, annual cotton bale throughput was 38,852 and 58,915, respectively, and annual PM emissions were 41.37 tons and 58.94 tons, respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	10%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes Failing to operate within permitted limits for cotton bale throughput and PM emissions resulted in the exposure of an insignificant amount of contaminants which did not exceed levels that are protective to human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 730

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

Violation Base Penalty \$2,000

Two annual events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$94

Violation Final Penalty Total \$1,700

This violation Final Assessed Penalty (adjusted for limits) \$1,700

Economic Benefit Worksheet

Respondent: Cotton Center Producers, Inc. dba United Gln Company
Case ID No.: 32009
Reg. Ent. Reference No.: RN101921989
Media: Air Quality
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,000	1-Oct-2004	21-Aug-2006	1.9	\$94	n/a	\$94
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a permit amendment. Date required based on the beginning of the ginning year during which the permit limits were exceeded. Final date based on compliance date (permit amendment issued).

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$94

Compliance History

Customer/Respondent/Owner-Operator: CN602598807 Cotton Center Producers, Inc. Classification: POOR Rating: 110.00
Regulated Entity: RN101921989 UNITED GIN COMPANY Classification: HIGH Site Rating: 0.00

ID Number(s): AIR NEW SOURCE PERMITS PERMIT
AIR NEW SOURCE PERMITS ACCOUNT NUMBER 6616
DC0013E

Location: 2501 S HIGHWAY 87, LAMESA, TX, 79331 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: December 13, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 13, 2001 to December 13, 2006

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

Name: Trina Grieco Phone: (210) 403-4006

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 12/08/2006 (533105)

2 05/26/2004 (273729)

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

...the ... of ...

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
COTTON CENTER PRODUCERS,
INC. DBA UNITED GIN COMPANY
RN101921989

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2006-2234-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 Cotton Center Producers, Inc. dba United Gin Company ("Cotton Center") 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 Cotton Center appear before the Commission and together stipulate that:

1. Cotton Center owns and operates a cotton ginning plant at 2501 South Highway 87 in Lamesa, Dawson 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 Cotton Center agree that the Commission has jurisdiction to enter this Agreed Order, and that Cotton Center is subject to the Commission's jurisdiction.
4. Cotton Center received notice of the violations alleged in Section II ("Allegations") on or about December 13, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Cotton Center of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Seven Hundred Dollars (\$1,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Cotton Center has paid One Thousand Three Hundred Sixty Dollars (\$1,360) of the administrative penalty and Three Hundred Forty Dollars (\$340) is deferred contingent upon Cotton Center'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 Cotton Center fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Cotton Center 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 Cotton Center 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 Cotton Center obtained a permit amendment, approved on August 21, 2006, which increased cotton bale annual throughput limits to 45,000 and particulate matter ("PM") annual emissions limits to 60.67 tons.
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 Cotton Center 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, Cotton Center is alleged to have failed to obtain a permit amendment prior to increasing annual cotton bale throughput above permitted limits of 30,000 bales resulting in an exceedance of the annual PM emissions limit of 40.5 tons, in violation of 30 TEX. ADMIN. CODE §§ 116.116(b)(1)(C) and 116.115(b)(2)(F) and (c), New Source Review Permit No. 6616, Special Conditions 1 and 2, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 16, 2006.

III. DENIALS

Cotton Center generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Cotton Center pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Cotton Center'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: Cotton Center Producers, Inc. dba United Gin Company, Docket No. 2006-2234-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 Cotton Center. Cotton Center 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. This Agreed Order, issued by the Commission, shall not be admissible against Cotton Center 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Cotton Center, or three days after the date on which the Commission mails notice of the Order to Cotton Center, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Cotton Center Producers, Inc. dba United Gin Company
DOCKET NO. 2006-2234-AIR-E
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/21/07

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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

2-27-07

Date

James C. Seago

Name (Printed or typed)
Authorized Representative of
Cotton Center Producers, Inc. dba United Gin Company

President

Title

Instructions: Send the original, signed Agreed Order with penalty payments to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.

1. Introduction

2. Methodology

3. Results

4. Discussion

5. Conclusion

6. References

7. Appendix

8. Acknowledgements

9. Author Biographies

10. Contact Information