

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0819-IWD-E **TCEQ ID:** RN102287257 **CASE NO.:** 33560

**RESPONDENT NAME:** Tejas Industries, Ltd.

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input 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 checked="" 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Tejas Industries, Ltd., approximately 3.5 miles southwest of the City of Herford on Highway 60, 4.2 miles southwest of the intersection of Highway 385 and Highway 60, and 3.5 miles northeast of the intersection of Farm-to-Market Road 1057 and Highway 60, Deaf Smith County</p> <p><b>TYPE OF OPERATION:</b> Animal rendering plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 29, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Garth Merrick, Owner, Tejas Industries, Ltd., 3261 Tierra Blanca Road, Hereford, Texas 79045  Mr. James L. Witcher, Jr., COO, Tejas Industries, Ltd., 3261 Tierra Blanca Road, Hereford, Texas 79045  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 13, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 27, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Five violations were documented.</p> <p><b>WATER</b></p> <p>1) Failed to comply with the permitted effluent limits for flow volumes to the anaerobic and lined lagoons, and Biochemical Oxygen Demand (5-day) ("BOD5") [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001300000, Section IV Conditions of the Permit].</p> <p>2) Failed to submit noncompliance notification as permit required for an effluent violation which deviated from the effluent limitation more than 40%. Specifically, six noncompliance notifications were not submitted for 40% (above 350 mg/L) exceedances of Biochemical Oxygen Demand (5-day) between January and December 2006 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0001300000, Monitoring Requirements 7(c)].</p> <p>3) Failed to maintain a minimum of two feet of freeboard for all wastewater ponds, and failed to at all times ensure that the facility and all of its systems are properly operated and maintained. Specifically, Tejas did not maintain two feet of freeboard in the lined lagoon, which contains wastewater from the hide curing operation, and failed to control weed growth on all anaerobic and aerobic</p>	<p><b>Total Assessed:</b> \$18,315</p> <p><b>Total Deferred:</b> \$3,663  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$14,652</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility starting March 1, 2007 and came into compliance during April 2007:</p> <p>a. A procedure was established and implemented on March 1, 2007, whereby the annual summary of the results of effluent analyses for Biochemical Oxygen Demand (5-day) ("BOD5") are submitted in September of each year to the TCEQ. The effluent analysis for BOD5 for 2006 were submitted February 14, 2007;</p> <p>b. Returned to compliance with permitted effluent limits during March 2007;</p> <p>c. On March 9, 2007, meters were replaced and calibrated. A program has been established to calibrate and conduct a flow test bi-annually in September and March of each year;</p> <p>d. Established and implemented a procedure by April 1, 2007; to ensure that noncompliance notifications for effluent violations which exceed the effluent limitations more than 40% are submitted to the TCEQ;</p> <p>e. Established and implemented a procedure by April 18, 2007, whereby the freeboard for all wastewater ponds are monitored and maintained at the appropriate level, construction completed to increase the lined freeboard to approximately to 5 1/2 feet, and implemented a full weed control program for the anaerobic and aerobic lagoons; and</p> <p>f. Water conservation began for all facilities by developing systems of recirculation and reuse of process wastewater thereby reducing flow volumes and reducing the Biochemical Oxygen Demand by the use of Quadriperoxide during April 2007.</p>

lagoons [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0001300000, Special Provisions F and H(3)].

4) Failed to submit the facility results from the analysis of BOD5 to the Enforcement Division (MC-224), Industrial Permits Team (MC-148) of the Water Quality Division, and the Regional Office of the TCEQ during the month of September of each calendar year. Specifically, Tejas did not submit the annual summary of results of effluent analyses for BOD5 for the year 2006 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0001300000, Section IV Conditions of the Permit, Parameters].

5) Failed to maintain all records of calibration of the in-line flow meters measuring flows of process wastewater. Specifically, the annual records for the year 2006 for the in-line flow meter measuring flows of process wastewater originating from the hide curing operation routed to the lined lagoon on-site could not be provided at the time of the February 13, 2007 investigation [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0001300000, Monitoring Requirements, Section No. 5, Calibration of Instruments].

Additional ID No(s): WQ0001300000





# Penalty Calculation Worksheet (PCW)

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	21-May-2006	<b>Screening</b>	23-May-2007	<b>EPA Due</b>	
	<b>PCW</b>	17-Jul-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Tejas Industries, Ltd.		
<b>Reg. Ent. Ref. No.</b>	RN102287257		
<b>Facility/Site Region</b>	1-Amarillo	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33560	<b>No. of Violations</b>	5
<b>Docket No.</b>	2007-0819-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	J. Craig Fleming
<b>Multi-Media</b>		<b>EC's Team</b>	3
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$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**

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

**Notes**

**Total EB Amounts**  **0% Enhancement\*** **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 23-May-2007

Docket No. 2007-0819-IWD-E

PCW

Respondent Tejas Industries, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33560

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102287257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	2	4%
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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	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) 9%

>> 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

A 9% enhancement is recommended for having one similar written NOV, and two written NOVs for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 9%

Screening Date 23-May-2007

Docket No. 2007-0819-IWD-E

PCW

Respondent Tejas Industries, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33560

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102287257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0001300000, Section IV Conditions of the Permit

Violation Description Failed to comply with the permitted effluent limits for flow volumes to the anaerobic and lined lagoons, and Biochemical Oxygen Demand (5-day), as documented during an investigation conducted on February 13, 2007. See attached Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 Number of violation days 333

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

Violation Base Penalty \$10,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$116

Violation Final Penalty Total \$9,900

This violation Final Assessed Penalty (adjusted for limits) \$9,900

## Economic Benefit Worksheet

**Respondent** Tejas Industries, Ltd.  
**Case ID No.** 33560  
**Reg. Ent. Reference No.** RN102287257  
**Media** Water 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
<b>Delayed Costs</b>							
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				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Feb-2006	31-Mar-2007	1.2	\$116	n/a	\$116

Notes for DELAYED costs

The estimated cost for oversight and monitoring. The Date Required is the date the noncompliances started. The Final Date is the date the facility came into compliance with permitted effluent limits.

**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

NA

Approx. Cost of Compliance

\$2,000

TOTAL

\$116

Screening Date 23-May-2007

Docket No. 2007-0819-IWD-E

PCW

Respondent Tejas Industries, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33560

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102287257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0001300000, Monitoring Requirement 7(c)

Violation Description

Failed to submit noncompliance notification as permit required for an effluent violation which deviated from the effluent limitation more than 40%, as documented during an investigation conducted on February 13, 2007. Specifically, 6 noncompliance notifications were not submitted for 40% (above 350 mg/L) exceedances of Biochemical Oxygen Demand (5-day) between January and December 2006. See attached Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6 Number of violation days 182

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

Violation Base Penalty \$6,000

Six single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$5,940

This violation Final Assessed Penalty (adjusted for limits) \$5,940

## Economic Benefit Worksheet

**Respondent** Tejas Industries, Ltd.  
**Case ID No.** 33560  
**Reg. Ent. Reference No.** RN102287257  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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/D/sposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$600	25-Feb-2007	1-Apr-2007	0.1	\$3	n/a	\$3

**Notes for DELAYED costs** Estimated cost to submit the monthly exceedances (\$50 per report for 12 months). The Date Required was the date required by the facility's permit to submit the first monthly exceedance reports. The Final Date is the date of compliance.

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** NA

**Approx. Cost of Compliance** \$600 **TOTAL** \$3

Screening Date 23-May-2007

Docket No. 2007-0819-IWD-E

PCW

Respondent Tejas Industries, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33560

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102287257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5), and TPDES Permit No. WQ0001300000, Section V, Special Provisions F and H(3)

Violation Description

Failed to maintain a minimum of two feet of freeboard for all wastewater ponds, and failed to at all times ensure that the facility and all of its systems are properly operated and maintained, as documented during an investigation conducted on February 13, 2007. Specifically, Tejas did not maintain two feet of freeboard in the lined lagoon which contained wastewater from the hide curing operation, and failed to control weed growth on all anaerobic and aerobic lagoons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 99

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$500

One single event is recommended based on the investigation date of February 13, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$495

This violation Final Assessed Penalty (adjusted for limits) \$495

## Economic Benefit Worksheet

**Respondent** Tejas Industries, Ltd.  
**Case ID No.** 33560  
**Reg. Ent. Reference No.** RN102287257  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### 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	\$500	13-Feb-2007	18-Apr-2007	0.2	\$4	n/a	\$4
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	13-Feb-2007	18-Apr-2007	0.2	\$9	n/a	\$9

#### Notes for DELAYED costs

Estimated cost for the inspection, monitoring, and establishing a procedure (\$500) to properly regulate the water freeboard level in the lined lagoon, and removing excessive weed growth (\$1,000) on all anaerobic and aerobic lagoons. The Date Required was the date of the investigation. The Final Date is the date of compliance.

### 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

NA

Approx. Cost of Compliance	\$1,500	TOTAL	\$13
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Screening Date 23-May-2007

Docket No. 2007-0819-IWD-E

PCW

Respondent Tejas Industries, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33560

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102287257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0001300000, Section IV Conditions of the Permit, Parameters

Violation Description

Failed to submit the facility results from the analyses of BOD5 to the Enforcement Division (MC-224), Industrial Permits Team (MC-148) of the Water Quality Division, and the Regional Office of the TCEQ during the month of September of each calendar year, as documented during an investigation conducted on February 13, 2007. Specifically, Tejas did not submit the annual summary of results of effluent analyses for BOD5 for the year 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 365 Number of violation days

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

Violation Base Penalty \$1,000

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$990

This violation Final Assessed Penalty (adjusted for limits) \$990

## Economic Benefit Worksheet

**Respondent** Tejas Industries, Ltd.  
**Case ID No.** 33560  
**Reg. Ent. Reference No.** RN102287257  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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				0.0	\$0	n/a	\$0
Other (as needed)	\$250	30-Sep-2006	14-Feb-2007	0.4	\$5	n/a	\$5

**Notes for DELAYED costs**  
 Estimated cost for submitting the annual summary of results from the analyses of BOD5 (\$250). The Date Required is the date required by the facility's permit to submit the annual reports. The Final Date is the date of compliance.

### 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**

NA

Approx. Cost of Compliance \$250

TOTAL \$5

Screening Date 23-May-2007

Docket No. 2007-0819-IWD-E

PCW

Respondent Tejas Industries, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 33560

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102287257

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0001300000, Monitoring Requirements, Section No. 5, Calibration of Instruments

Violation Description

Failed to maintain all records of calibration of the in-line flow meters measuring flows of process wastewater, as documented during an investigation conducted on February 13, 2007. Specifically, the annual records for the year 2006 for the in-line flow meter measuring flows of process wastewater originating from the hide curing operation routed to the lined lagoon on-site could not be provided at the time of the February 13, 2007 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 365

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

Violation Base Penalty \$1,000

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$62

Violation Final Penalty Total \$990

This violation Final Assessed Penalty (adjusted for limits) \$990

## Economic Benefit Worksheet

**Respondent** Tejas Industries, Ltd.  
**Case ID No.** 33560  
**Reg. Ent. Reference No.** RN102287257  
**Media** Water Quality  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### 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				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel	\$50	1-Jan-2006	9-Mar-2007	1.2	\$3	\$59	\$62
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

Estimated cost to maintain the calibration records. The Date Required was the first day of the required annual calibration period. The Final Date is the date of compliance.

Approx. Cost of Compliance

\$50

**TOTAL**

\$62

**Effluent Violation Table**  
 Tejas Industries, Ltd.  
 TPDES Permit No. WQ0001300000  
 Docket No. 2007-0819-IWD-E  
 Corresponds to Violation Nos. 1 & 2

Permitted Effluent Limits	Effluents Monitored		
	Flow to the anaerobic lagoon; permitted flow of 350,000 gpd	Flow to the lined lagoon permitted flow of 3,280 gpd	BOD5 permitted limit of 250 mg/L, once per month, single grab
January 2006	C	C	433 mg/L
February 2006	C	17,526 gpd	433 mg/L
March 2006	C	8,963 gpd	453 mg/L
April 2006	C	8,557 gpd	260 mg/L
May 2006	C	8,865 gpd	260 mg/L
June 2006	C	8,476 gpd	287 mg/L
July 2006	C	7,998 gpd	C
August 2006	C	11,167 gpd	407 mg/L
September 2006	C	9,551 gpd	340 mg/L
October 2006	C	11,292 gpd	300 mg/L
November 2006	C	10,676 gpd	440 mg/L
December 2006	352,000 gpd	10,494 gpd	510 mg/L

mg/L = milligrams per Liter	gpd = gallons per day	BOD5 = Biochemical Oxygen Demand (5 day)
C = compliant		



# Compliance History

Customer/Respondent/Owner-Operator: CN602648669 Tejas Industries, Ltd. Classification: AVERAGE Rating: 2.60  
Regulated Entity: RN102287257 TEJAS INDUSTRIES LTD Classification: AVERAGE Site Rating: 2.60  
ID Number(s): WASTEWATER PERMIT WQ0001300000  
Location: Approximately 3.5 miles southwest of the City of Herford on Highway 60, 4.2 miles southwest of the intersection of Highway 385 and Highway 60, and 3.5 miles northeast of the intersection of Farm-to-Market Road 1057 and Highway 60, Deaf Smith County, Texas. Rating Date: September 01 06 Repeat Violator: NO  
TCEQ Region: REGION 01 - AMARILLO  
Date Compliance History Prepared: May 21, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 21, 2002 to May 21, 2007

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

Name: J. Craig Fleming Phone: (512) 239-5806

## 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	11/21/2002	(8149)
2	09/07/2004	(291892)
3	02/02/2005	(347725)
4	07/17/2005	(398860)
5	01/19/2007	(532074)
6	02/27/2007	(539540)

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

Date: 06/25/2004 (275521)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.1(1)

Rqmt Prov: PERMIT WQ 01300

Description: Failure to properly notify the TCEQ Waste Evaluation Section (MC-129) in Austin of the construction of any industrial solid waste management unit and to deed record this area according to the requirements of 30 TAC # 335.5 prior to the disposal of any industrial waste.

Date: 02/01/2005 (347725)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT IV, Conditions Of The Permit

Description: Failure to meet permit effluent limitations for BOD5.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT VI., Standard Provisions  
Description: Failure to report orally and in writing within five business days to the TCEQ Region Office, of becoming aware of, a greater than 40% deviation from a permit limitation for BOD5.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT IV. Conditions Of The Permit  
Description: Failure to install a flow measurement device and keep accurate records for wastewater from the hide curing operation. This flow is routed to the lined (brine evaporation pond) and has a permit limit of 3,280 gallons per day.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Rqmt Prov: PERMIT V., Special Provisions  
Description: Failure to maintain the permit required two feet of freeboard in the lined (brine evaporation pond), containing wastewater produced from the hide curing operation.

Date 01/18/2007 (532074)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
Rqmt Prov: PERMIT MSGP, TXR050000, Part II, Section C.2(a)  
Description: The facility has failed to obtain permit coverage under the MSGP

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A.281.25(a)(4)  
Rqmt Prov: PERMIT MSGP TXR050000 Part III. Sect. A.1(a)  
Description: The facility has failed to develop and implement a storm water pollution prevention plan (SWP3) according to the requirements of this permit before submitting a Notice of Intent (NOI) for permit coverage.

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  
TEJAS INDUSTRIES, LTD.  
RN102287257

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-0819-IWD-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 Tejas Industries, Ltd. ("Tejas") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Tejas appear before the Commission and together stipulate that:

1. Tejas owns and operates an animal rendering plant approximately 3.5 miles southwest of the City of Herford on Highway 60, 4.2 miles southwest of the intersection of Highway 385 and Highway 60, and 3.5 miles northeast of the intersection of Farm-to-Market Road 1057 and Highway 60, Deaf Smith County, Texas, (the "Facility").
2. Tejas has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Tejas agree that the Commission has jurisdiction to enter this Agreed Order, and that Tejas is subject to the Commission's jurisdiction.
4. Tejas received notice of the violations alleged in Section II ("Allegations") on or about March 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Tejas of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Eighteen Thousand Three Hundred Fifteen Dollars (\$18,315) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Tejas has paid Fourteen Thousand Six Hundred Fifty-Two Dollars (\$14,652) of the administrative penalty and Three Thousand Six Hundred Sixty-Three Dollars (\$3,663) is deferred contingent upon Tejas' 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 Tejas fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Tejas 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 Tejas 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 Tejas has implemented the following corrective measures at the Facility starting March 1, 2007 and came into compliance during April 2007.
  - a. A procedure was established and implemented on March 1, 2007, whereby the annual summary of the results of effluent analyses for Biochemical Oxygen Demand (5-day) ("BOD5") are submitted in September of each year to the TCEQ. The effluent analyses for BOD5 for 2006 were submitted February 14, 2007;
  - b. Returned to compliance with permitted effluent limits during March 2007;
  - c. On March 9, 2007, meters were replaced and calibrated. A program has been established to calibrate and conduct a flow test bi-annually in September and March of each year;
  - d. Established and implemented a procedure by April 1, 2007, to ensure that noncompliance notifications for effluent violations which exceed the effluent limitations more than 40% are submitted to the TCEQ;
  - e. Established and implemented a procedure by April 18, 2007, whereby the freeboard for all wastewater ponds are monitored and maintained at the appropriate level, construction completed to increase the lined freeboard to approximately to 5 1/2 feet, and implemented a full weed control program for the anaerobic and aerobic lagoons; and
  - f. Water conservation began for all facilities by developing systems of recirculation and reuse of process wastewater thereby reducing flow volumes and reducing the Biochemical Oxygen Demand by the use of Quadriperoxide during April 2007.
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 Tejas 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 Facility, Tejas is alleged to have:

1. Failed to comply with the permitted effluent limits for flow volumes to the anaerobic and lined lagoons, and Biochemical Oxygen Demand (5-day) ("BOD5"), in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001300000, Section IV Conditions of the Permit, as documented during an investigation conducted on February 13, 2007, as indicated in the table below.



Effluent Violation Table Tejas Industries, Ltd.			
Permitted Effluent Limits	Effluents Monitored		
	Flow to the anaerobic lagoon; permitted flow of 350,000 gpd	Flow to the lined lagoon permitted flow of 3,280 gpd	BOD5 permitted limit of 250 mg/L, once per month, single grab
January 2006	C	C	433 mg/L
February 2006	C	17,526 gpd	433 mg/L
March 2006	C	8,963 gpd	453 mg/L
April 2006	C	8,557 gpd	260 mg/L
May 2006	C	8,865 gpd	260 mg/L
June 2006	C	8,476 gpd	287 mg/L
July 2006	C	7,998 gpd	C
August 2006	C	11,167 gpd	407 mg/L
Sept. 2006	C	9,551 gpd	340 mg/L
October 2006	C	11,292 gpd	300 mg/L
Nov. 2006	C	10,676 gpd	440 mg/L
Dec. 2006	352,000 gpd	10,494 gpd	510 mg/L

mg/L = milligrams per Liter	gpd = gallons per day	BOD5 = Biochemical Oxygen Demand (5 day)
C = compliant		

- Failed to submit noncompliance notification as permit required for an effluent violation which deviated from the effluent limitation more than 40%, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0001300000, Monitoring Requirements 7(c), as documented during an investigation conducted on February 13, 2007. Specifically, 6 noncompliance notifications were not submitted for 40% (above 350 mg/L) exceedances of Biochemical Oxygen Demand (5-day) between January and December 2006.
- Failed to maintain a minimum of two feet of freeboard for all wastewater ponds, and failed to at all times ensure that the facility and all of its systems are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0001300000, Special Provisions F and H(3), as documented during an investigation conducted on February 13, 2007. Specifically, Tejas did not maintain two feet of freeboard in the lined lagoon, which contains wastewater from the hide curing operation, and failed to control weed growth on all anaerobic and aerobic lagoons.



4. Failed to submit the facility results from the analyses of BOD5 to the Enforcement Division (MC-224), Industrial Permits Team (MC-148) of the Water Quality Division, and the Regional Office of the TCEQ during the month of September of each calendar year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0001300000, Section IV Conditions of the Permit, Parameters, as documented during an investigation conducted on February 13, 2007. Specifically, Tejas did not submit the annual summary of results of effluent analyses for BOD5 for the year 2006.
5. Failed to maintain all records of calibration of the in-line flow meters measuring flows of process wastewater, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0001300000, Monitoring Requirements, Section No. 5, Calibration of Instruments, as documented during an investigation conducted on February 13, 2007. Specifically, the annual records for the year 2006 for the in-line flow meter measuring flows of process wastewater originating from the hide curing operation routed to the lined lagoon on-site could not be provided at the time of the February 13, 2007 investigation.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Tejas pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Tejas' 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: Tejas Industries, Ltd., Docket No. 2007-0819-IWD-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 Tejas. Tejas is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Tejas 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.

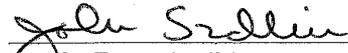
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Tejas, or three days after the date on which the Commission mails notice of the Order to Tejas, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

12/7/07  
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 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

8/21/07  
Date

James L. Witcher Jr.  
Name (Printed or typed)  
Authorized Representative of  
Tejas Industries, Ltd.

COO  
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.

