

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1099-AIR-E **TCEQ ID:** RN100212612 **CASE NO.:** 34162  
**RESPONDENT NAME:** Red Ewald, Inc.

<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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Red Ewald, Inc., 2669 South Highway 181, Karnes City, Karnes County</p> <p><b>TYPE OF OPERATION:</b> Fiberglass tank manufacturing</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 November 26, 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> Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Mark W. Witte, President, Red Ewald, Inc., P.O. Box 519, Karnes City, Texas 78118-0519  <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 type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> June 20, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 27, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>AIR</b></p> <p>Failed to submit the Title V Annual Compliance Certification within 30 days after the end of the December 29, 2005 to December 28, 2006 certification period. Specifically, the report was due January 27, 2007, but was not submitted until May 29, 2007 [30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,125</p> <p><b>Total Deferred:</b> \$425  <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> \$1,700</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input 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 Red Ewald submitted the annual compliance certification on May 29, 2007.</p>

Additional ID No(s): KA0018C



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned PCW</b>	2-Jul-2007	<b>Screening</b>	10-Jul-2007	<b>EPA Due</b>	23-Mar-2008
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Red Ewald, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100212612
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	34162	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2007-1099-AIR-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Trina Grieco	
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 5	
<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: Penalty enhancement due to one agreed order containing a denial of liability issued for this plant. Penalty reduction due to High Performer Classification.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**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	(mark with x)	

Notes: The Respondent completed corrective actions on May 29, 2007.

**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**

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

Notes

**Adjustment**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty**

**DEFERRAL**

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

Notes

Deferral offered for expedited settlement.

**Adjustment**

**PAYABLE PENALTY**

Screening Date 10-Jul-2007

Docket No. 2007-1099-AIR-E

PCW

Respondent Red Ewald, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34162

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100212612

Media [Statute] Air

Enf. Coordinator Trina Grieco

## Compliance History Worksheet

## &gt;&gt; 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)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Penalty enhancement due to one agreed order containing a denial of liability issued for this plant. Penalty reduction due to High Performer Classification.

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

<b>Screening Date</b> 10-Jul-2007	<b>Docket No.</b> 2007-1099-AIR-E	<b>PCW</b>												
<b>Respondent</b> Red Ewald, Inc.		<small>Policy Revision 2 (September 2002)</small>												
<b>Case ID No.</b> 34162		<small>PCW Revision June 26, 2007</small>												
<b>Reg. Ent. Reference No.</b> RN100212612														
<b>Media [Statute]</b> Air														
<b>Enf. Coordinator</b> Trina Grieco														
<b>Violation Number</b>	1													
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 122.146(2) and Tex. Health & Safety Code § 382.085(b)													
<b>Violation Description</b>	Failed to submit the Title V Annual Compliance Certification within 30 days after the end of the December 29, 2005 to December 28, 2006 certification period. Specifically, the report was due January 27, 2007, but was not submitted until May 29, 2007.													
	<b>Base Penalty</b>	\$10,000												
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
	<b>Harm</b>													
	Major      Moderate      Minor													
<b>OR</b>	Actual	Percent <input type="text" value="0%"/>												
	Potential													
<b>&gt;&gt; Programmatic Matrix</b>														
	<b>Falsification</b>													
	Major      Moderate      Minor													
		Percent <input type="text" value="25%"/>												
<b>Matrix Notes</b>	100% of the rule requirement was not met.													
	<b>Adjustment</b>	\$7,500												
		\$2,500												
<b>Violation Events</b>														
<b>Number of Violation Events</b>	1	<b>Number of violation days</b> <input type="text" value="122"/>												
	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	x													
<small>mark only one with an x</small>														
	One single event is recommended.													
<b>Economic Benefit (EB) for this violation</b>														
<b>Estimated EB Amount</b>	<input type="text" value="\$5"/>	<b>Statutory Limit Test</b>												
		<b>Violation Final Penalty Total</b> <input type="text" value="\$2,125"/>												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,125"/>													

## Economic Benefit Worksheet

**Respondent** Red Ewald, Inc.  
**Case ID No.** 34162  
**Reg. Ent. Reference No.** RN100212612  
**Media** Air  
**Violation No.** 1

<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
No commas or \$							

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$300	27-Jan-2007	29-May-2007	0.3	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to prepare and submit an annual compliance certification. Date required is the date the report was required to be submitted. Final date is the date corrective actions were completed.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$300

TOTAL

\$5

## Compliance History

Customer/Respondent/Owner-Operator:	CN600126270 Red Ewald, Inc.	Classification: HIGH	Rating: 0.00																											
Regulated Entity:	RN100212612 RED EWALD	Classification: HIGH	Site Rating: 0.00																											
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER</td> <td style="width: 25%;">KA0018C</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2705</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>17945</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>KA0018C</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4825500011</td> </tr> <tr> <td>PETROLEUM STORAGE TANK REGISTRATION</td> <td>REGISTRATION</td> <td>3022</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD041469990</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>32906</td> </tr> <tr> <td>STORMWATER</td> <td>PERMIT</td> <td>TXR05P820</td> </tr> </table>			AIR OPERATING PERMITS	ACCOUNT NUMBER	KA0018C	AIR OPERATING PERMITS	PERMIT	2705	AIR NEW SOURCE PERMITS	PERMIT	17945	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	KA0018C	AIR NEW SOURCE PERMITS	AFS NUM	4825500011	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	3022	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD041469990	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32906	STORMWATER	PERMIT	TXR05P820
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INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32906																												
STORMWATER	PERMIT	TXR05P820																												
Location:	2669 S. HWY 181, KARNES CITY, TX, 78118	Rating Date: September 01 06	Repeat Violator: NO																											
TCEQ Region:	REGION 13 - SAN ANTONIO																													
Date Compliance History Prepared:	July 03, 2007																													
Agency Decision Requiring Compliance History:	Enforcement																													
Compliance Period:	July 03, 2002 to July 03, 2007																													
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.
- |   |                            |
|---|----------------------------|
| Effective Date: 03/19/2007  | ADMINORDER 2006-1079-AIR-E |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)   |                            |
| 30 TAC Chapter 122, SubChapter B 122.146(2)   |                            |
| 5C THC Chapter 382, SubChapter D 382.085(b)   |                            |
| Rqmt Prov: GOP O-01006, General Terms and Condition OP  |                            |
| Description: Failed to submit an annual compliance certification within 30 days after the end of the May 25, 2005 to December 29, 2005 (date the referenced permit was voided) certification period. Specifically, the report was required to be submitted by January 28, 2006, but was not submitted until July 7, 2006. |                            |
- 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 | 07/29/2003 | (146305) |
| 2 | 07/08/2004 | (279848) |
| 3 | 07/15/2004 | (280358) |
| 4 | 07/15/2005 | (394603) |
| 5 | 07/20/2006 | (486498) |
| 6 | 06/27/2007 | (564992) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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  
RED EWALD, INC.  
RN100212612

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-1099-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 Red Ewald, Inc. ("Red Ewald") 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 Red Ewald appear before the Commission and together stipulate that:

1. Red Ewald owns and operates a fiberglass tank manufacturing plant at 2669 South Highway 181 in Karnes City, Karnes 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 Red Ewald agree that the Commission has jurisdiction to enter this Agreed Order, and that Red Ewald is subject to the Commission's jurisdiction.
4. Red Ewald received notice of the violations alleged in Section II ("Allegations") on or about July 2, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Red Ewald of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand One Hundred Twenty-Five Dollars (\$2,125) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Red Ewald has paid One Thousand Seven Hundred Dollars (\$1,700) of the administrative penalty and Four Hundred Twenty-Five Dollars (\$425) is deferred contingent upon



- Red Ewald'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 Red Ewald fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Red Ewald 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 Red Ewald 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 Red Ewald submitted the annual compliance certification on May 29, 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 Red Ewald 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, Red Ewald is alleged to have failed to submit the Title V Annual Compliance Certification within 30 days after the end of the December 29, 2005 to December 28, 2006 certification period, in violation of 30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 20, 2007. Specifically, the report was due January 27, 2007, but was not submitted until May 29, 2007.

## III. DENIALS

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



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Red Ewald pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Red Ewald'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: Red Ewald, Inc., Docket No. 2007-1099-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 Red Ewald. Red Ewald 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 Red Ewald 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 Red Ewald, or three days after the date on which the Commission mails notice of the Order to Red Ewald, 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

*John Szallier*  
For the Executive Director

12/03/2007  
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.

*Mark W. Witte*  
Signature

9/21/07  
Date

Mark W. Witte  
Name (Printed or typed)  
Authorized Representative of  
Red Ewald, Inc.

President  
Title

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

