

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1300-MLM-E TCEQ ID: RN102952983 CASE NO.: 36369

RESPONDENT NAME: Favelle Favco Cranes USA, Inc.

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 checked="" 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>SITE WHERE VIOLATION(S) OCCURRED: Favelle Favco Cranes USA, Inc., 26360 Farm-to-Market Road 106, Harlingen, Cameron County</p> <p>TYPE OF OPERATION: Crane component manufacturing plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 25, 2008, alleging improper disposal of chemicals. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 26, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Mario Perez, Safety Coordinator, Favelle Favco Cranes USA, Inc., 26360 Farm-to-Market Road 106, Harlingen, Texas 78550 Mr. Michael Khou, General Manager, Favelle Favco Cranes USA, Inc., 26360 Farm-to-Market Road 106, Harlingen, Texas 78550 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 25, 2008</p> <p>Date of Investigation Relating to this Case: June 10 and 11, 2008</p> <p>Date of NOV/NOE Relating to this Case: July 22, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failure to comply with the paint booth's pounds per hour emissions limit. Specifically, the New Source Review Permit by Rule Registration ("NSRPBRR") limits volatile organic compound ("VOC") emissions to six pounds per hour, averaged over any five-hour period, and the Respondent exceeded that limit on August 8, October 24, December 7, and December 18, 2007. VOC pounds per hour emissions on those dates were 6.8, 9.2, 6.5, and 6.5, respectively [NSRPBRR Number 72677, 30 TEX. ADMIN. CODE § 106.433(6)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain sufficient records to demonstrate compliance with the NSRPBRR. Specifically, the Respondent's records for November 22, 2007 contain contradictory data that shows 16 pounds of VOC per gallon of epoxy were used on that day; however, no epoxy was used that day [NSRPBRR Number 72677, 30 TEX. ADMIN. CODE § 106.8(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to use a filter with a manufacturer-documented minimal 95% removal efficiency to abate emissions from paint spraying operations. Specifically, the Respondent was using a 3M Ultra Allergen 1250 filter rated at only 90% removal</p>	<p>Total Assessed: \$4,128</p> <p>Total Deferred: \$825 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,651</p> <p>Total Paid to General Revenue: \$1,652</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input 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 the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On June 18, 2008:</p> <p>i. Began maintaining a SWP3 onsite and readily available for review;</p> <p>ii. Provided photographs of properly labeled drums in the container storage area; and</p> <p>iii. Provided photographs of spill clean up equipment located on site.</p> <p>b. On August 18, 2008, increased the painting time from three hours to five hours in order to comply with the pounds per hour permit limit;</p> <p>c. On August 5, 2008, hired a safety coordinator to provide further recordkeeping oversight; and</p> <p>d. By August 30, 2008, provided filters with the required removal efficiency and increased paint booth oversight with the hiring of the safety coordinator.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

efficiency [NSRPBRR Number 72677, 30 TEX. ADMIN. CODE § 106.433(6)(C), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

WATER

4) Failure to have a storm water pollution prevention plan ("SWP3") onsite and readily available for review [Texas Pollutant Discharge Elimination System ("TPDES") General Permit Number TXR05W625, Part III.A.1.(a), and 30 TEX. ADMIN. CODE § 281.25(a)(4)].

5) Failure to clearly label drums, tanks, or other containers. Specifically, several drums in the container storage area were not labeled [TPDES General Permit Number TXR05W625, Part III.A.5.(b)(3) and 30 TEX. ADMIN. CODE § 281.25(a)(4)].

6) Failure to make materials and equipment necessary for spill clean up available to personnel [TPDES General Permit Number TXR05W625, Part III.A.5.(b)(6), and 30 TEX. ADMIN. CODE § 281.25(a)(4)].

Additional ID No(s): N/A

Attachment A
Docket Number: 2008-1300-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Favelle Favco Cranes USA, Inc.
Penalty Amount: Three Thousand Three Hundred Three Dollars (\$3,303)
SEP Offset Amount: One Thousand Six Hundred Fifty-One Dollars (\$1,651)
Type of SEP: Pre-approved
Third-Party Recipient: Friends of Laguna Atascosa National Wildlife Refuge
Location of SEP: Cameron County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Friends of Laguna Atascosa National Wildlife Refuge* for the *Flooding of Bahia Grande Project* in Cameron County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to work with the United States Fish and Wildlife Service to re-flood the Bahia Grande. This will restore tidal wetland habitats that went dry with the construction of the Brownsville ship channel. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by restoring the native wetland habitat of the Bahia Grande. This will have an effect of reducing dust storms that have caused havoc in the area and will provide a habitat for marine invertebrates, fish, birds, and aquatic vegetation.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Friends of Laguna Atascosa National Wildlife Refuge
Attn: Shane Wilson
22817 Ocelot Road
Los Fresnos, Texas 78566

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	4-Aug-2008			
	PCW	3-Oct-2008	Screening	11-Aug-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Favelle Favco Cranes USA, Inc.
Reg. Ent. Ref. No.	RN102952983
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36369	No. of Violations	6
Docket No.	2008-1300-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Terry Murphy
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$4,200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	14.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$588
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Notes: The penalty was enhanced by two NOVs for same or similar violations and two NOVs for dissimilar violations.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$660
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$242
 Approx. Cost of Compliance \$8,200
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$4,128
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$4,128
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$4,128
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$825
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,303
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Screening Date 11-Aug-2008	Docket No. 2008-1300-MLM-E	PCW
Respondent Favelle Favco Cranes USA, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36369		<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No. RN102952983		
Media [Statute] Air		
Enf. Coordinator Terry Murphy		

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 (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 14%

>> **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

The penalty was enhanced by two NOVs for same or similar violations and two NOVs for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

Screening Date 11-Aug-2008	Docket No. 2008-1300-MLM-E	PCW
Respondent Favelle Favco Cranes USA, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36369	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN102952983		
Media [Statute] Air		
Enf. Coordinator Terry Murphy		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	New Source Review Permit by Rule Registration ("NSRPBRR") Number 72677, 30 Tex. Admin. Code § 106.433(6)(A) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to comply with the paint booth's pounds per hour emissions limit. Specifically, the NSRPBRR limits volatile organic compound ("VOC") emissions to six pounds per hour, averaged over any five-hour period, and the Respondent exceeded that limit on August 8, October 24, December 7, and December 18, 2007. VOC pounds per hour emissions on those dates were 6.8, 9.2, 6.5, and 6.5, respectively, as documented during an investigation conducted on June 11, 2008.	
Base Penalty		<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release	Major Moderate Minor
	Actual	<input type="text"/> <input type="text"/> <input checked="" type="text" value="X"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
Percent		<input type="text" value="10%"/>
>> Programmatic Matrix		
	Falsification	Major Moderate Minor
	<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
Percent		<input type="text" value="0%"/>
Matrix Notes	Human health or the environment were exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violations.	
Adjustment		<input type="text" value="\$9,000"/>
		<input type="text" value="\$1,000"/>
Violation Events		
Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="4"/>
	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="X"/>
	semi-annual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
Violation Base Penalty		<input type="text" value="\$2,000"/>
Two quarterly events are recommended.		
Good Faith Efforts to Comply		
	<input type="text" value="10.0%"/> Reduction	<input type="text" value="\$200"/>
	Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="X"/>
N/A	(mark with x)	
Notes	The Respondent completed corrective actions on August 18, 2008.	
Violation Subtotal		<input type="text" value="\$1,800"/>
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$144"/>	Violation Final Penalty Total <input type="text" value="\$2,080"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,080"/>

Economic Benefit Worksheet

Respondent: Favelle Favco Cranes USA, Inc.
 Case ID No. 36369
 Reg. Ent. Reference No. RN102952983
 Media Air
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	8-Aug-2007	18-Aug-2008	1.03	\$7	\$137	\$144
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to pay for additional employee time to extend the painting process from three hours to five hours. The Date Required is the date of the first violation, and the Final Date is the date the new scheduling was put into effect.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,000	TOTAL	\$144
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Screening Date 11-Aug-2008	Docket No. 2008-1300-MLM-E	PCW		
Respondent Favelle Favco Cranes USA, Inc.	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36369	<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN102952983				
Media [Statute] Air				
Enf. Coordinator Terry Murphy				
Violation Number 2				
Rule Cite(s)	NSRPBRR Number 72677, 30 Tex. Admin. Code § 106.8(c)(2)(B) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain sufficient records to demonstrate compliance with the NSRPBRR. Specifically, the Respondent's records for November 22, 2007 contain contradictory data that shows 16 pounds of VOC per gallon of epoxy were used on that day; however, no epoxy was used that day, as documented during an investigation conducted on June 11, 2008.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
Percent				1%
Matrix Notes	The Respondent failed to comply with less than 30% of the recordkeeping requirements.			
Adjustment		\$9,900		
		\$100		
Violation Events				
Number of Violation Events		1	Number of violation days	
		1		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
Violation Base Penalty				\$100
One single event is recommended.				
Good Faith Efforts to Comply		10.0% Reduction		\$10
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>		
N/A	<small>(mark with x)</small>			
Notes	The Respondent completed corrective actions on August 5, 2008.			
Violation Subtotal				\$90
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$35	Violation Final Penalty Total	
			\$104	
This violation Final Assessed Penalty (adjusted for limits)				\$104

Economic Benefit Worksheet

Respondent Favelle Favco Cranes USA, Inc.
Case ID No. 36369
Reg. Ent. Reference No. RN102952983
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	22-Nov-2007	5-Aug-2008	0.70	\$35	n/a	\$35
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to provide additional recordkeeping oversight. The Date Required is the date of the violation, and the Final Date is the date the Respondent assigned a safety coordinator to oversee the recordkeeping.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$35

Screening Date 11-Aug-2008	Docket No. 2008-1300-MLM-E	PCW	
Respondent Favelle Favco Cranes USA, Inc.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36369		<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN102952983			
Media [Statute] Air			
Enf. Coordinator Terry Murphy			
Violation Number	3		
Rule Cite(s)	NSRPBRR Number 72677, 30 Tex. Admin. Code § 106.433(6)(C) and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to use a filter with a manufacturer-documented minimal 95% removal efficiency to abate emissions from paint spraying operations. Specifically, the Respondent was using a 3M Ultra Allergen 1250 filter rated at only 90% removal efficiency, as documented during an investigation conducted on June 11, 2008.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Percent			5%
>> Programmatic Matrix			
Falsification			
Major Moderate Minor			
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Percent			0%
Matrix Notes	Human health or the environment could be exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violations.		
Adjustment		\$9,500	
Subtotal		\$500	
Violation Events			
Number of Violation Events		1	
Number of violation days		1	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input checked="" type="checkbox"/>	
Violation Base Penalty		\$500	
One single event is recommended.			
Good Faith Efforts to Comply		10.0% Reduction	
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="checkbox"/>		<input type="checkbox"/>
Ordinary	<input type="checkbox"/>		<input checked="" type="checkbox"/>
N/A	<input type="checkbox"/>		<small>(mark with x)</small>
Notes	The Respondent completed corrective actions on August 30, 2008.		
Violation Subtotal		\$450	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$61		Violation Final Penalty Total \$520
This violation Final Assessed Penalty (adjusted for limits)			\$520

Economic Benefit Worksheet

Respondent: Favelle Favco Cranes USA, Inc.
Case ID No.: 36369
Reg. Ent. Reference No.: RN102952983
Media: Air
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	\$4,000	11-Jun-2008	30-Aug-2008	0.22	\$3	\$58	\$61
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to purchase and install new filters and provide improved filter face velocity oversight. The Date Required is the date of the investigation, and the Final Date is when the equipment was replaced. The safety coordinator hired on August 5, 2008 also has assumed responsibility for increased paint booth oversight, including proper filter usage.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

TOTAL

\$61

Screening Date 11-Aug-2008	Docket No. 2008-1300-MLM-E	PCW		
Respondent Favelle Favco Cranes USA, Inc.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36369	<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN102952983				
Media [Statute] Air				
Enf. Coordinator Terry Murphy				
Violation Number 4				
Rule Cite(s)	Texas Pollutant Discharge Elimination System ("TPDES") General Permit Number TXR05W625, Part III.A.1.(a) and 30 Tex. Admin. Code § 281.25(a)(4)			
Violation Description	Failed to have a storm water pollution prevention plan ("SWP3") onsite and readily available for review, as documented during an investigation conducted on June 10, 2008.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	0%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	10%	
Matrix Notes	The Respondent failed to comply with 100% of the rule.			
Adjustment		\$9,000		
		\$1,000		
Violation Events				
	Number of Violation Events	1	Number of violation days	
		8		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	Violation Base Penalty	
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input checked="" type="checkbox"/>		
		Violation Base Penalty	\$1,000	
One single event is recommended.				
Good Faith Efforts to Comply				
		25.0% Reduction	\$250	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
N/A	<input type="checkbox"/>	<input type="checkbox"/>	(mark with x)	
Notes	The Respondent returned to compliance on June 18, 2008.			
Violation Subtotal		\$750		
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount	\$1	Violation Final Penalty Total	\$890	
		This violation Final Assessed Penalty (adjusted for limits)	\$890	

Economic Benefit Worksheet

Respondent: Favelle Favco Cranes USA, Inc.

Case ID No.: 36369

Reg. Ent. Reference No.: RN102952983

Media: Air

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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	10-Jun-2008	18-Jun-2008	0.02	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to improve the recordkeeping system. The Date Required is the date of the investigation, and the Final Date is the date the Respondent provided a copy of the plan.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 11-Aug-2008 **Docket No.** 2008-1300-MLM-E **PCW**
Respondent: Favelle Favco Cranes USA, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 36369 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN102952983
Media [Statute] Air
Enf. Coordinator Terry Murphy
Violation Number 5
Rule Cite(s) TPDES General Permit Number TXR05W625, Part III.A.5.(b)(3) and 30 Tex. Admin. Code § 281.25(a)(4)
Violation Description Failed to clearly label drums, tanks, or other containers. Specifically, several drums in the container storage area were not labeled, as documented during an investigation conducted on June 10, 2008.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes The Respondent failed to comply with less than 30% of the rule.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 **Number of violation days** 8

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$25

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary	x	
N/A		(mark with x)

Notes The Respondent returned to compliance on June 18, 2008.

Violation Subtotal \$75

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$89

This violation Final Assessed Penalty (adjusted for limits) \$89

Economic Benefit Worksheet

Respondent: Favelle Favco Cranes USA, Inc.

Case ID No.: 36369

Reg. Ent. Reference No.: RN102952983

Media: Air

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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	10-Jun-2008	18-Jun-2008	0.02	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to provide labels for drums. The Date Required is the date of the investigation, and the Final Date is the date the Respondent provided photos of the drums with labels affixed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$0

Screening Date 11-Aug-2008	Docket No. 2008-1300-MLM-E	PCW
Respondent Favelle Favco Cranes USA, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36369		<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No. RN102952983		
Media [Statute] Air		
Enf. Coordinator Terry Murphy		
Violation Number	6	
Rule Cite(s)	TPDES General Permit Number TXR05W625, Part III.A.5.(b)(6) and 30 Tex. Admin. Code § 281.25(a)(4)	
Violation Description	Failed to make materials and equipment necessary for spill clean up available to personnel, as documented during an investigation conducted on June 10, 2008.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	Percent <input type="text" value="5%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes Human health or the environment could have been exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

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

Notes The Respondent returned to compliance on June 18, 2008.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Favelle Favco Cranes USA, Inc.

Case ID No.: 36369

Reg. Ent. Reference No.: RN102952983

Media: Air

Violation No.: 6

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	\$500	10-Jun-2008	18-Jun-2008	0.02	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to provide clean up materials. The Date Required is the date of the investigation, and the Final Date is the date the Respondent provided photos of the materials in place at the site.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator: CN601534175 Favelle Favco Cranes USA, Inc. Classification: AVERAGE Rating: 0.38
Regulated Entity: RN102952983 FAVELLE FAVCO CRANES USA INC Classification: AVERAGE Site Rating: 0.38
ID Number(s): STORMWATER PERMIT TXR05W625
AIR NEW SOURCE PERMITS REGISTRATION 72677
AIR NEW SOURCE PERMITS REGISTRATION 74116
Location: 26360 Farm-to-Market Road 106, HARLINGEN, TX, 78550 Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: August 12, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 11, 2003 to August 12, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Terry Murphy Phone: (512) 239-5025

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 07/01/2004 (278492)
 - 2 10/05/2004 (291931)
 - 3 10/27/2004 (337249)
 - 4 12/16/2004 (344337)
 - 5 03/03/2005 (372809)
 - 6 04/18/2005 (377326)
 - 7 04/20/2005 (378149)
 - 8 06/30/2005 (397490)
 - 9 06/30/2005 (397494)
 - 10 08/19/2005 (405979)
 - 11 08/19/2005 (400387)
 - 12 11/30/2005 (438682)
 - 13 01/30/2006 (453410)
 - 14 03/21/2006 (459653)
 - 15 05/31/2006 (480466)
 - 16 08/16/2007 (511152)
 - 17 10/04/2007 (596352)
 - 18 10/16/2007 (597725)
 - 19 10/24/2007 (598775)
 - 20 10/24/2007 (598922)
 - 21 07/21/2008 (682948)
 - 22 07/21/2008 (682644)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/18/2004 (278036)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter S 106.433(9)

Description: Failure to have the required authorization from the TCEQ to conduct surface coating operations.

Date: 09/17/2004 (291293)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.4
Description: Failure to prevent the discharge of any source whatsoever one or more air contaminants or combinations thereof which may tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 106, SubChapter T 106.452
Description: Failure to obtain written authorization prior to commencing dry abrasive cleaning (sand blasting) from the executive director.

Date: 08/17/2007 (511152)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(A)
Description: Failure to operate the outside blasting operation within the requirements where the daily usage for the operation does not exceed one ton per day, the monthly usage for the operation does not exceed 15 tons per month, and the total annual usage for the operation does not exceed 150 tons.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(2)(B)
Description: Failure to maintain records to contain sufficient information to demonstrate compliance in all appropriate PBR conditions.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 106, SubChapter S 106.433(6)(A)
Description: Failure to operate the paint booth within the required limits of six lbs/hr of VOC emissions averaged over any five hour period.

Date: 10/12/2007 (597725)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to obtain authorization to discharge storm water associated with industrial activity to water in the state through an individual permit, the Multi-Sector General Permit (MSGP) TXR050000 issued under the Texas Pollutant Discharge Elimination System.

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
FAVELLE FAVCO
CRANES USA, INC.
RN102952983

§
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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1300-MLM-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 Favelle Favco Cranes USA, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a crane component manufacturing plant at 26360 Farm-to-Market Road 106 in Harlingen, Cameron 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 Respondent 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.
4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of violations alleged in Section II ("Allegations") on or about July 27, 2008.

6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of Four Thousand One Hundred Twenty-Eight Dollars (\$4,128) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Fifty-Two Dollars (\$1,652) of the administrative penalty and Eight Hundred Twenty-Five Dollars (\$825) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. One Thousand Six Hundred Fifty-One Dollars (\$1,651) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.
8. 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.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On June 18, 2008:
 - i. Began maintaining a storm water pollution prevention plan ("SWP3") onsite and readily available for review;
 - ii. Provided photographs of properly labeled drums in the container storage area; and
 - iii. Provided photographs of spill clean up equipment located on site;
 - b. On August 18, 2008, increased the painting time from three hours to five hours in order to comply with the pounds per hour permit limit;
 - c. On August 5, 2008, hired a safety coordinator to provide further recordkeeping oversight; and
 - d. By August 30, 2008, provided filters with the required removal efficiency and increased paint booth oversight with the hiring of the safety coordinator.
11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
12. 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.

13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with the paint booth's pounds per hour emissions limit, in violation of New Source Review Permit by Rule Registration ("NSRPBRR") Number 72677, 30 TEX. ADMIN. CODE § 106.433(6)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 11, 2008. Specifically, the NSRPBRR limits volatile organic compound ("VOC") emissions to six pounds per hour, averaged over any five-hour period, and the Respondent exceeded that limit on August 8, October 24, December 7, and December 18, 2007. VOC pounds per hour emissions on those dates were 6.8, 9.2, 6.5, and 6.5, respectively.
2. Failed to maintain sufficient records to demonstrate compliance with the NSRPBRR, in violation of NSRPBRR Number 72677, 30 TEX. ADMIN. CODE § 106.8(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 11, 2008. Specifically, the Respondent's records for November 22, 2007 contain contradictory data that shows 16 pounds of VOC per gallon of epoxy were used on that day; however, no epoxy was used that day.
3. Failed to use a filter with a manufacturer-documented minimal 95% removal efficiency to abate emissions from paint spraying operations, in violation of NSRPBRR Number 72677, 30 TEX. ADMIN. CODE § 106.433(6)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 11, 2008. Specifically, the Respondent was using a 3M Ultra Allergen 1250 filter rated at only 90% removal efficiency.
4. Failed to have a SWP3 onsite and readily available for review, in violation of Texas Pollutant Discharge Elimination System ("TPDES") General Permit Number TXR05W625, Part III.A.1.(a) and 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on June 10, 2008.
5. Failed to clearly label drums, tanks, or other containers, in violation of TPDES General Permit Number TXR05W625, Part III.A.5.(b)(3) and 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on June 10, 2008. Specifically, several drums in the container storage area were not labeled.
6. Failed to make materials and equipment necessary for spill clean up available to personnel, in violation of TPDES General Permit Number TXR05W625, Part III.A.5.(b)(6) and 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on June 10, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Favelle Favco Cranes USA, Inc., Docket No. 2008-1300-MLM-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 Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 7 above, One Thousand Six Hundred Fifty-One Dollars (\$1,651) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Oliver
For the Executive Director

11/9/2009
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.

Michael Khoo
Signature

11/10/08
Date

MICHAEL KHOO
Name (Printed or typed)
Authorized Representative of
Favelle Favco Cranes USA, Inc.

GENERAL MANAGER
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.

Attachment A

Docket Number: 2008-1300-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Favelle Favco Cranes USA, Inc.
Penalty Amount: Three Thousand Three Hundred Three Dollars (\$3,303)
SEP Offset Amount: One Thousand Six Hundred Fifty-One Dollars (\$1,651)
Type of SEP: Pre-approved
Third-Party Recipient: Friends of Laguna Atascosa National Wildlife Refuge
Location of SEP: Cameron County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Friends of Laguna Atascosa National Wildlife Refuge* for the *Flooding of Bahia Grande Project* in Cameron County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to work with the United States Fish and Wildlife Service to re-flood the Bahia Grande. This will restore tidal wetland habitats that went dry with the construction of the Brownsville ship channel. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by restoring the native wetland habitat of the Bahia Grande. This will have an effect of reducing dust storms that have caused havoc in the area and will provide a habitat for marine invertebrates, fish, birds, and aquatic vegetation.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Friends of Laguna Atascosa National Wildlife Refuge
Attn: Shane Wilson
22817 Ocelot Road
Los Fresnos, Texas 78566

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

