

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1067-WQ-E **TCEQ ID:** RN103785259 **CASE NO.:** 34125
RESPONDENT NAME: David Golden dba Nema Enterprises

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 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>SITE WHERE VIOLATION(S) OCCURRED: Nema Enterprises, 2636 Highway 69 South, Lumberton, Hardin County</p> <p>TYPE OF OPERATION: Sign manufacturing facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 8, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. David Golden, President, Nema Enterprises, P.O. Box 8750, Lumberton, Texas 77657 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 11, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 13, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to obtain authorization to discharge storm water associated with industrial activities to water in the state through an individual Texas Pollutant Discharge Elimination System permit or Multi-Sector General Permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p>	<p>Total Assessed: \$3,280</p> <p>Total Deferred: \$656 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,624</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 submitted a Notice of Intent to discharge storm water associated with industrial activities to water in the state on April 11, 2007.</p>

Additional ID No(s): TXRNES138



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	11-Jun-2007	Screening	22-Jun-2007	EPA Due	
	PCW	13-Jul-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	David Golden dba Nema Enterprises		
Reg. Ent. Ref. No.	RN103785259		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34125	No. of Violations	1
Docket No.	2007-1067-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

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

Notes

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 22-Jun-2007

Docket No. 2007-1067-WQ-E

PCW

Respondent David Golden dba Nema Enterprises

Policy Revision 2 (September 2002)

Case ID No. 34125

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103785259

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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	1	2%
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%

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) 7%

>> **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 Respondent was issued one Notice of Violation ("NOV") for a same or similar violation, and one NOV for an unrelated violation.

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

Screening Date 22-Jun-2007	Docket No. 2007-1067-WQ-E	PCW		
Respondent David Golden dba Nema Enterprises	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34125	<i>PCW Revision June 26, 2007</i>			
Reg. Ent. Reference No. RN103785259				
Media [Statute] Water Quality				
Enf. Coordinator Heather Brister				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)"/>			
Violation Description	<input 11,="" 12,="" 2006."="" 2007.="" an="" april="" as="" conducted="" december="" documented="" during="" expired="" general="" investigation="" multi-sector="" on="" or="" permit="" permit,="" tpdes")="" type="text" value="Failed to obtain authorization to discharge storm water associated with industrial activities to water in the state through an individual Texas Pollutant Discharge Elimination System ("/>			
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 type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				<input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
Percent				<input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met"/>			
Adjustment				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
Violation Events				
Number of Violation Events	<input type="text" value="4"/>	Number of violation days	<input type="text" value="120"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	x		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Violation Base Penalty				<input type="text" value="\$4,000"/>
<input type="text" value="Four monthly events are recommended based on the permit expiration date of December 12, 2006 to date of compliance, April 11, 2007."/>				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$2"/>	Violation Final Penalty Total	<input type="text" value="\$3,280"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$3,280"/>	

Economic Benefit Worksheet

Respondent David Golden dba Nema Enterprises
Case ID No. 34125
Reg. Ent. Reference No. RN103785259
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
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)	\$100	12-Dec-2006	11-Apr-2007	0.3	\$2	n/a	\$2

Notes for DELAYED costs

The estimated cost of completing the Notice of Intent ("NOI"). Date Required is the date the permit expired. Final Date is the date the NOI was submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator: CN603105776 GOLDEN, DAVID LEON Classification: AVERAGE Rating: 1.25
 Regulated Entity: RN103785259 NEMA ENTERPRISES Classification: AVERAGE Site Rating: 1.25
 ID Number(s): STORMWATER PERMIT TXRNES138
 Location: 2636 HIGHWAY 69 S, LUMBERTON, HARDIN COUNTY TEXAS, 77657
 TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: July 05, 2007 Rating Date: September 01 06 Repeat Violator: NO
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: July 05, 2002 to July 05, 2007
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? Nema Enterprises, Inc.
5. When did the change(s) in ownership occur? 02/19/2004

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 08/26/2003 (150846)
 - 2 11/10/2003 (254194)
 - 3 02/19/2004 (262591)
 - 4 05/14/2007 (557044)
 - 5 06/06/2007 (556849)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 1 Date: 08/26/2003 (150846)
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 Description: Failure by the facility to obtain an Multi-Sector Industrial General Permit TXR050000 (MSGP) to authorize the discharge of storm water.
 - 2 Date: 05/14/2007 (557044)
 Self Report? NO Classification: Moderate
 Citation: 5A THC Chapter 341, SubChapter A 341.011(5)
 5A THC Chapter 341, SubChapter A 341.012(a)
 5B THC Chapter 366, SubChapter A 366.017(a)(1)
 TWC Chapter 26 26.121(a)(1)
 Description: Failure by Nema Enterprises to dispose of waste water, sewage, or other organic wastes in a manner so as not to be a potential instrument or medium in disease transmission to a person or between persons.
 - 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
DAVID GOLDEN DBA NEMA
ENTERPRISES
RN103785259

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1067-WQ-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 David Golden dba Nema Enterprises ("Mr. Golden") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Golden appear before the Commission and together stipulate that:

1. Mr. Golden owns and operates a sign manufacturing facility located at 2636 Highway 69 South in Lumberton, Hardin County, Texas (the "Facility").
2. Mr. Golden has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Mr. Golden agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Golden is subject to the Commission's jurisdiction.
4. Mr. Golden received notice of the violations alleged in Section II ("Allegations") on or about April 13, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Golden of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Two Hundred Eighty Dollars (\$3,280) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Mr. Golden has paid Two Thousand Six Hundred Twenty-Four Dollars (\$2,624) of the administrative penalty and Six Hundred Fifty-Six Dollars (\$656) is deferred contingent upon Mr. Golden'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 Mr. Golden fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Golden 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 Mr. Golden 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 Mr. Golden submitted a Notice of Intent to discharge storm water associated with industrial activities to water in the state on April 11, 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 Mr. Golden 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, Mr. Golden is alleged to have failed to obtain authorization to discharge storm water associated with industrial activities to water in the state through an individual Texas Pollutant Discharge Elimination System ("TPDES") permit or Multi-Sector General Permit, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on April 11, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Golden pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Golden'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: David Golden dba Nema Enterprises, Docket No. 2007-1067-WQ-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 Mr. Golden. Mr. Golden 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 Mr. Golden 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 Mr. Golden, or three days after the date on which the Commission mails notice of the Order to Mr. Golden, 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. Soder
For the Executive Director

5/11/2009
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.

Dail L. Ladd
Signature

10-5-07
Date

David Golden
Name (Printed or typed)
Authorized Representative of
David Golden dba Nema Enterprises

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.