

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1958-AIR-E **TCEQ ID:** RN100234681 **CASE NO.:** 35057
RESPONDENT NAME: Rescar, 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 type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Rescar Orange Facility, 1993 Foreman Road, Orange, Orange County</p> <p>TYPE OF OPERATION: Railcar repair and painting facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 September 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3553; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. David Kraker, Vice President, Rescar, Inc., 407 West Brentwood Street, Channelview, Texas 77530 Mr. Kevin Wilck, Vice President Environmental, Rescar, Inc., 407 West Brentwood Street, Channelview, Texas 77530 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 24 through October 4, 2007</p> <p>Date of NOV/NOE Relating to this Case: November 27, 2007 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to submit a semi-annual deviation report by February 27, 2007. Specifically, the semi-annual deviation report was due by February 27, 2007, but was not received until August 20, 2007 [30 TEX. ADMIN. CODE § 122.145(2)(B) and (C), Federal Operating Permit No. 1532, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$2,425</p> <p>Total Deferred: \$485 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,940</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on August 20, 2007, the Respondent submitted a deviation report to the Beaumont Regional Office which was due February 27, 2007. Also on April 14, 2007, a spreadsheet was developed which establishes reporting periods and due dates for all compliance reports.</p> |

Additional ID No(s): OC0054A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

| | | | | | | |
|--------------|----------|------------|-----------|------------|---------|------------|
| DATES | Assigned | 3-Dec-2007 | Screening | 6-Dec-2007 | EPA Due | 1-Sep-2008 |
| | PCW | 6-Dec-2007 | | | | |

| | |
|--|--------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Rescar, Inc. |
| Reg. Ent. Ref. No. | RN100234681 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Major |

| | | | |
|---------------------------------|-----------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 35057 | No. of Violations | 1 |
| Docket No. | 2007-1958-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Enf. Coordinator | Roshondra Lowe |
| Multi-Media | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 22% Enhancement Subtotals 2, 3, & 7 \$550

Notes: The penalty was enhanced by one 1660 Order with denial of liability and one non-similar NOV.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5 \$625

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

Notes: The Respondent achieved compliance on August 20, 2007.

Total EB Amounts \$36 0% Enhancement* Subtotal 6 \$0
 Approx. Cost of Compliance \$1,500 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$2,425

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$2,425

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$2,425

DEFERRAL 20% Reduction Adjustment -\$485

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 \$1,940

Screening Date 6-Dec-2007

Docket No. 2007-1958-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35057

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100234681

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

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) | 0 | 0% |
| | Other written NOVs | 1 | 2% |
| 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 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) 22%

>> 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 one 1660 Order with denial of liability and one non-similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 6-Dec-2007

Docket No. 2007-1958-AIR-E

PCW

Respondent Rescar, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35057

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100234681

Media [Statute] Air

Enf. Coordinator Roshondra Lowe

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(B) and (C), Federal Operating Permit No. 1532, General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit a semi-annual deviation report by February 27, 2007. Specifically, the semi-annual deviation report was due by February 27, 2007, but was not received until August 20, 2007.

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|----------------------|---------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|-------------------------------------|----------------------|----------------------|----------------------------------|
| | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="25%"/> |

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

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="checkbox"/> |

Violation Base Penalty

One single event is recommended.

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 Rescar, Inc.
 Case ID No. 35057
 Reg. Ent. Reference No. RN100234681
 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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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) | \$1,500 | 27-Feb-2007 | 20-Aug-2007 | 0.5 | \$36 | n/a | \$36 |

Notes for DELAYED costs

Estimated cost of submitting a deviation report in a timely manner. Date required is the date the deviations should have been submitted and final date is the date the Respondent completed all the corrective actions.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$36

Compliance History

| | | | |
|-------------------------------------|---|----------------------------------|---------------------|
| Customer/Respondent/Owner-Operator: | CN600540751 Rescar, Inc. | Classification: AVERAGE | Rating: 11.32 |
| Regulated Entity: | RN100234681 RESCAR ORANGE FACILITY | Classification: POOR | Site Rating: 60.00 |
| ID Number(s): | AIR OPERATING PERMITS | ACCOUNT NUMBER | OC0054A |
| | AIR OPERATING PERMITS | PERMIT | 1532 |
| | AIR NEW SOURCE PERMITS | PERMIT | 18226 |
| | AIR NEW SOURCE PERMITS | PERMIT | 19342 |
| | AIR NEW SOURCE PERMITS | PERMIT | 39970 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | OC0054A |
| | AIR NEW SOURCE PERMITS | AFS NUM | 4836100026 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD000835215 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 32644 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD000835215 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 32644 |
| Location: | 1993 FOREMAN RD, ORANGE, TX, 77630 | Rating Date: September 01 07 | Repeat Violator: NO |

TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: December 05, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: December 07, 2002 to December 05, 2007

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

Name: Daniel Siringi Phone: (409) 899-8799

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 | Effective Date: 08/31/2007 | ADMINORDER 2007-0087-AIR-E |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 30 TAC Chapter 122, SubChapter B 122.145(2)(B) | |
| | 5C THC Chapter 382, SubChapter D 382.085(b) | |
| | Rqmt Prov: SC1A OP | |
| | Description: Failed to submit deviation reports for the July 27, 2005 through July 26, 2006 compliance period. | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) | |
| | 5C THC Chapter 382, SubChapter D 382.085(b) | |
| | Rqmt Prov: 18226 Special Condition 9(C) PERMIT O-1532 Special Condition 7 OP | |
| | Description: Failed to maintain complete records. For the July 27, 2005 through July 26, 2006 period Rescar failed to maintain records and reports on each of the abrasive blasting facilities representing the monthly new additions of blast media and the total of new blast media additions over the calendar year for either | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) | |

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 18226 Special Condition 9(D)(1) PERMIT

O-1532 Special Condition 7 OP

Description: Failed to produce monthly reports of volatile organic compound ("VOC") emissions for EPN 5. Records provided for the July 27, 2005 to July 26, 2006 period did not include records for the interior lining booths and bays ("EPN 5") for any month and no report for VOC emissions in tons per year

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 18226 Special Condition 9(D)(2) PERMIT
O-1532 Special Condition 7 OP

Description: Failed to maintain monthly reports on the coating lines. For the July 25, 2005 to July 26, 2006 period no records of adhesive usage were available, calculations were incorrect, and documentation of data, including for tons per year VOC emissions for the 12-month period was incomplete.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19342 Special Condition 12(C) PERMIT
O-1532 Special Condition 7 OP

Description: Failed to maintain documentation and electronic records as specified on each railcar entering the facility. Rescar did not maintain such records on railcars during the July 27, 2005 through July 26, 2006 period.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19342 Special Condition 7 PERMIT
O-1532 Special Condition 7 OP

Description: Failed to comply with daily monitoring requirements for the Carbon Absorption Unit ("CAU")

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19342 PERMIT
O-1532 Special Condition 7 OP

Description: Failed to establish and perform a site-wide maintenance and inspection program. Rescar has no established program; additionally for the July 27, 2005 to July 27, 2006 period there are no records of visual inspections for leaks and equipment repairs.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 19342 Special Condition 12(D) PERMIT
O-1532 Special Condition 7 OP

Description: Failed to comply with the monthly reporting requirements on railcar cleaning. No monthly reports for the July 27, 2005 through July 26, 2006 period were available.

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 03/14/2003 (21813)

N/A

2 12/29/2003 (257826)

3 08/29/2005 (400575)
 4 02/22/2006 (451335)
 5 01/05/2007 (533825)
 6 11/27/2007 (596802)

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

| | | | | |
|--------------|--|----------|-----------------|----------|
| Date | 11/27/2007 | (596806) | | |
| Self Report? | NO | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 19342 Special Condition 12 (A) ⁷ | | | |
| Description: | Failure to maintain records as per SC 12(A) of Permit 19342. | | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 19342 Special Condition 7 | | | |
| Description: | Failure to comply with the recordkeeping requirements including monitoring and testing of the Carbon adsorption unit as stated in Special Condition 7 of Permit 19342. | | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 19342 Special Condition 9 | | | |
| Description: | Failure to establish and perform site-wide maintenance and inspection program including visual inspection of leaks on an annual basis. | | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 19342 Special Condition 12(D) | | | |
| Description: | Failure to comply with the recordkeeping requirements as stated in Special Condition 12(D) of Permit 19342. | | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 19342 Special Condition 12(C) | | | |
| Description: | Failure to maintain records as specified in SC12(C) of Permit 19342. | | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 18226 Special Condition 9(C) | | | |
| Description: | Failure to maintain monthly records regarding monthly addition of blast media. | | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 18226 Special Condition 9(D)(2) | | | |
| Description: | Failure to maintain monthly reports in accordance with SC 9(D)(2) of Permit 18226. | | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) | | | |
| Rqmt Prov: | OP 1532 Special Condition 7 PERMIT 18226 Special Condition 9(D)(3) | | | |
| Description: | Failure to maintain monthly reports in accordance with SC 9(D)(3) of Permit 18226. | | | |

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
RESCAR, INC.
RN100234681

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1958-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 Rescar, Inc. ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a railcar repair and painting facility at 1993 Foreman Road in Orange, Orange 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 2, 2007.
5. 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.
6. An administrative penalty in the amount of Two Thousand Four Hundred Twenty-Five Dollars (\$2,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Nine Hundred Forty Dollars (\$1,940) of the administrative penalty and Four Hundred Eighty-Five Dollars (\$485) 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.
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 the Respondent 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 on August 20, 2007, the Respondent submitted a deviation report to the Beaumont Regional Office which was due February 27, 2007. Also on April 14, 2007, a spreadsheet was developed which establishes reporting periods and due dates for all compliance reports.
 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 the Respondent 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, the Respondent is alleged to have failed to submit a semi-annual deviation report by February 27, 2007, in violation of 30 TEX. ADMIN. CODE § 122.145(2)(B) and (C), Federal Operating Permit No. 1532, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 24, 2007 through October 4, 2007. Specifically, the semi-annual deviation report was due by February 27, 2007, but was not received until August 20, 2007.

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 6 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: Rescar, Inc., Docket No. 2007-1958-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 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.
3. 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.
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 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


For the Executive Director

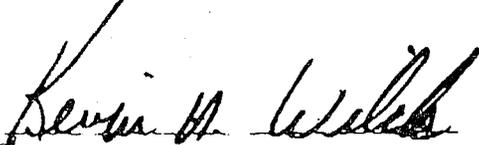
8/19/2009
Date

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.


Signature

7/15/09
Date

Kevin Welch
Name (Printed or typed)
Authorized Representative of
Rescar, Inc

VP Environmental
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