

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-1013-AIR-E TCEQ ID: RN104707633 CASE NO.: 34442**

**RESPONDENT NAME: Robert Lerma, Jr. and Marta Villarreal dba G S I II**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> G S I II, 6077 South U.S. Highway 281, Alice, Jim Wells County</p> <p><b>TYPE OF OPERATION:</b> Abrasive cleaning and surface coating facilities</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on November 3, 2008, alleging dust coming onto the complainant's property from the Respondent's operations. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 21, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Robert Lerma, Jr. and Ms. Marta Villarreal, Owner/Operator, G S I II, P.O. Box 3647, Alice, Texas 78333-3647  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> November 3, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> November 4, 2008 (Routine Investigation) and July 1, 2009 (Record Review)</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 10, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a record review investigation.</p> <p><b>AIR</b></p> <p>1) Failure to comply with the ordering provision of an Agreed Order and exceeded allowable material usage. Specifically, the Agreed Order required the Respondents to certify compliance with the material usage limits set by 30 TEX. ADMIN. CODE § 106.452, or submit a permit request to authorize greater usage, by July 19, 2008. However, the Respondents have not submitted the compliance certification, and the Respondents' records show material usage in excess of 66.7 tons per month, while the limit is 15 tons per month [Agreed Order Docket No. 2007-1294-AIR-E, Ordering Provision No. 3.a.ii., 30 TEX. ADMIN. CODE § 116.110(a), and TEX. HEALTH &amp; SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p> <p>2) Failure to comply with the ordering provision of an Agreed Order and failed to provide complete records. Specifically, the Agreed Order required the Respondents to certify compliance with the operating and record keeping requirements for their outdoor coatings operation, as required by 30 TEX. ADMIN. CODE § 106.433(8), by July 19, 2008. However, the Respondents have not submitted the compliance certification, and during the investigation,</p>	<p><b>Total Assessed:</b> \$44,200</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$2,200 (remaining \$42,000 due in 35 monthly payments of \$1,200 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b>                      This is a Findings Order because the case involves a violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondents to:</p> <p>a. Within 15 days after the effective date of this Agreed Order, submit an administratively complete permit application for the abrasive cleaning and coatings operation; and</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate the abrasive cleaning and coatings operations has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained.</p>

<p>TCEQ staff documented that the Respondents' records for the outdoor coatings operation were incomplete [Agreed Order Docket No. 2007-1294-AIR-E, Ordering Provision No. 3.a.i., 30 TEX. ADMIN. CODE § 106.433(8)(B)-(D), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
--	--	--

Additional ID No(s): JGA002B





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	15-Jun-2009	<b>Screening</b>	14-Jul-2009	<b>EPA Due</b>	
	<b>PCW</b>	30-Jul-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Robert Lerma, Jr. and Marta Villarreal dba G S I I
<b>Reg. Ent. Ref. No.</b>	RN104707633
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34442	<b>No. of Violations</b>	2
<b>Docket No.</b>	2009-1013-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Terry Murphy
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$26,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 70.0% Enhancement **Subtotals 2, 3, & 7** **\$18,200**

**Notes**  
The penalty was enhanced by two 1660-style agreed orders, one NOV for the same or similar violations, repeat violator, and poor performer status; and reduced by voluntary on-site compliance assessment.

**Culpability** No 0.0% Enhancement **Subtotal 4** **\$0**

**Notes**  
The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** 0.0% Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts	\$1,026
Approx. Cost of Compliance	\$11,500

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$44,200**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$44,200**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$44,200**

**DEFERRAL** 0.0% Reduction **Adjustment** **\$0**

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

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$44,200**

Screening Date: 14-Jul-2009

Docket No. 2009-1013-AIR-E

PCW

Respondent: Robert Lerma, Jr. and Marta Villarreal dba G S I I

Policy Revision 2 (September 2002)

Case ID No. 34442

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104707633

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	Yes	-10%
	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) 35%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced by two 1660-style agreed orders, one NOV for the same or similar violations, repeat violator, and poor performer status; and reduced by voluntary on-site compliance assessment.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date 14-Jul-2009

Docket No. 2009-1013-AIR-E

PCW

Respondent Robert Lerma, Jr. and Marta Villarreal dba G S II

Policy Revision 2 (September 2002)

Case ID No. 34442

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104707833

Media [Statute] Air

Enf. Coordinator Terry Murphy

Violation Number 1

Rule Cite(s)

Agreed Order Docket No. 2007-1294-AIR-E, Ordering Provision No. 3.a.ii., 30 Tex. Admin. Code § 116.110(a), and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description

Failed to comply with the ordering provision of an Agreed Order and exceeded allowable material usage, as documented during an investigation conducted on November 4, 2008 and a record review conducted on July 1, 2009. Specifically, the Agreed Order required the Respondents to certify compliance with the material usage limits set by 30 Tex. Admin. Code § 106.452, or submit a permit request to authorize greater usage, by July 19, 2008. However, the Respondents have not submitted the compliance certification, and the Respondents' records show material usage in excess of 66.7 tons per month, while the limit is 15 tons per month.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

The Respondents failed to comply with 100% of the provision.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 13

390 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$13,000

Thirteen monthly events are recommended, from the effective date of the Agreed Order (June 19, 2008) to the enforcement screening date (July 14, 2009).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$13,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$892

Violation Final Penalty Total \$22,100

This violation Final Assessed Penalty (adjusted for limits) \$22,100

## Economic Benefit Worksheet

**Respondent:** Robert Lerma, Jr. and Marta Villarreal dba G S J II

**Case ID No.:** 34442

**Reg. Ent. Reference No.:** RN104707633

**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				0.00	\$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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	19-Jun-2008	1-Apr-2010	1.78	\$892	n/a	\$892
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to prepare and submit a permit request to authorize the abrasive cleaning and coatings operations. The Date Required is the date the Agreed Order became effective, and the Final Date is the date the Respondents are expected to return to compliance.

### 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

\$10,000

TOTAL

\$892

Screening Date 14-Jul-2009 Docket No. 2009-1013-AIR-E PCW

Respondent Robert Lerma, Jr. and Marta Villarreal dba G S I II Policy Revision 2 (September 2002)

Case ID No. 34442 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104707633

Media [Statute] Air

Enf. Coordinator Terry Murphy

Violation Number 2

Rule Cite(s) Agreed Order Docket No. 2007-1294-AIR-E, Ordering Provision No. 3.a.i., 30 Tex. Admin. Code § 106.433(8)(B)-(D), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with the ordering provision of an Agreed Order and failed to provide complete records, as documented during an investigation conducted on November 4, 2008 and a record review conducted on July 1, 2009. Specifically, the Agreed Order required the Respondents to certify compliance with the operating and record-keeping requirements for their outdoor coatings operation, as required by 30 Tex. Admin. Code § 106.433(8), by July 19, 2008. However, the Respondents have not submitted the compliance certification, and during the investigation, TCEQ staff documented that the Respondents' records for the outdoor coatings operation were incomplete.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release Potential	Harm			Percent
	Major	Moderate	Minor	
OR				0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes The Respondents failed to comply with 100% of the provision.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 13 390 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$13,000

Thirteen monthly events are recommended, from the effective date of the Agreed Order (June 19, 2008) to the enforcement screening date (July 14, 2009).

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$13,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$134 Violation Final Penalty Total \$22,100

This violation Final Assessed Penalty (adjusted for limits) \$22,100

## Economic Benefit Worksheet

**Respondent:** Robert Lerma, Jr. and Maria Villarreal dba G S II  
**Case ID No.:** 34442  
**Reg. Ent. Reference No.:** RN104707633  
**Media:** Air  
**Violation No.:** 2

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1,500	19-Jun-2008	1-Apr-2010	1.78	\$134	n/a	\$134
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 cost to implement a record keeping system for outdoor coatings operations. The Date Required is the date the Agreed Order became effective and the Final Date is the date the Respondents are expected to return to compliance.

### 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	\$1,500	<b>TOTAL</b>	\$134
----------------------------	---------	--------------	-------

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603259821 LERMA, ROBERT JR Classification: POOR Rating: 263.33  
Regulated Entity: RN104707633 G S I II Classification: POOR Site Rating: 263.33  
ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 76629  
AIR NEW SOURCE PERMITS REGISTRATION 78339  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER JGA002B  
AIR NEW SOURCE PERMITS AFS NUM 4824900030  
Location: 6077 S US HIGHWAY 281, ALICE, TX, 78332  
TCEQ Region: REGION 14 - CORPUS CHRISTI  
Date Compliance History Prepared: July 28, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 28, 2004 to July 28, 2009  
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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: YES

## Components (Multimedia) for the Site :

### A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/14/2006 ADMINORDER 2006-0029-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: The facility failed to gain authority for emissions from it's abrasive cleaning operations through either a permit or permit by rule.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: Failure to obtain authority either through a permit-by-rule or permit for surface coating operations.

Effective Date: 06/19/2008 ADMINORDER 2007-1294-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: Failure to obtain authority to operate a site with air emissions. Specifically, the RE has knowingly continued to operate without a Permit By Rule authorization and has submitted records showing continued operation and abrasive sandblasting material usage.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(8)

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

Description: Failure to maintain records of daily coatings and solvent use, actual hours of operation for each coating or stripping operation, and monthly reports listing the actual hours of operation and emissions from the surface coating operations in pounds per hour, pounds per day, pounds per week, and tons emitted from the site during the previous 12 months as required by 30 TAC §106.433(8)(B-D).

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 05/02/2007 (554448)

2 07/13/2007 (562299)

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

Date: 08/05/2005 (402732)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: The facility failed to gain authority for emissions from it's abrasive cleaning operations through either a permit or permit by rule.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

08/26/2005

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603259839 VILLARREAL, MARTA Classification: POOR Rating: 263.33  
Regulated Entity: RN104707633 G S I II Classification: POOR Site Rating: 263.33  
ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 76629  
AIR NEW SOURCE PERMITS REGISTRATION 78339  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER JGA002B  
AIR NEW SOURCE PERMITS AFS NUM 4824900030  
Location: 6077 S US HIGHWAY 281, ALICE, TX, 78332  
TCEQ Region: REGION 14 - CORPUS CHRISTI  
Date Compliance History Prepared: July 28, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 28, 2004 to July 28, 2009  
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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: YES

## Components (Multimedia) for the Site :

### A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/14/2006

ADMINORDER 2006-0029-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: The facility failed to gain authority for emissions from it's abrasive cleaning operations through either a permit or permit by rule.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: Failure to obtain authority either through a permit-by-rule or permit for surface coating operations.

Effective Date: 06/19/2008

ADMINORDER 2007-1294-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: Failure to obtain authority to operate a site with air emissions. Specifically, the RE has knowingly continued to operate without a Permit By Rule authorization and has submitted records showing continued operation and abrasive sandblasting material usage.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter S 106.433(8)

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

Description: Failure to maintain records of daily coatings and solvent use, actual hours of operation for each coating or stripping operation, and monthly reports listing the actual hours of operation and emissions from the surface coating operations in pounds per hour, pounds per day, pounds per week, and tons emitted from the site during the previous 12 months as required by 30 TAC §106.433(8)(B-D).

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 05/02/2007 (554448)

2 07/13/2007 (562299)

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

Date: 08/05/2005 (402732)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

5C THC Chapter 382, SubChapter A 382.0518(a)

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

Description: The facility failed to gain authority for emissions from its abrasive cleaning operations through either a permit or permit by rule.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

08/26/2005

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  
ROBERT LERMA, JR. AND  
MARTA VILLARREAL DBA G S I II  
RN104707633**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-1013-AIR-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Robert Lerma, Jr. and Marta Villarreal dba G S I II ("the Respondents") 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 Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondents own and operate abrasive cleaning and surface coating facilities at 6077 South U.S. Highway 281 in Alice, Jim Wells County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on November 4, 2008 and a record review conducted on July 1, 2009, TCEQ staff documented that the Respondents failed to comply with the ordering provision of an Agreed Order and exceeded allowable material usage. Specifically, the Agreed Order required the Respondents to certify compliance with the material usage limits set by 30 TEX. ADMIN. CODE § 106.452, or submit a permit request to authorize greater usage, by July 19, 2008. However, the Respondents have not submitted the compliance certification, and the Respondents' records show material usage in excess of 66.7 tons per month, while the limit is 15 tons per month.
4. During an investigation conducted on November 4, 2008 and a record review conducted on July 1, 2009, TCEQ staff documented that the Respondents failed to comply with the ordering provision of an Agreed Order and failed to provide complete records. Specifically, the Agreed Order required the Respondents to certify compliance with the operating and record keeping requirements for their outdoor coatings operation, as required by 30 TEX. ADMIN. CODE § 106.433(8), by July 19, 2008. However, the Respondents have not submitted the compliance certification, and during the investigation, TCEQ staff documented that the Respondents' records for the outdoor coatings operation were incomplete.
3. The Respondents received notice of the violations on June 16, 2009.

## II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondents failed to comply with the ordering provision of an Agreed Order and exceeded allowable material usage, in violation of Agreed Order Docket No. 2007-1294-AIR-E, Ordering Provision No. 3.a.ii., 30 TEX. ADMIN. CODE § 116.110(a), and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a).
3. As evidenced by Findings of Fact No. 4, the Respondents failed to comply with the ordering provision of an Agreed Order and failed to provide complete records, in violation of Agreed Order Docket No. 2007-1294-AIR-E, Ordering Provision No. 3.a.i., 30 TEX. ADMIN. CODE § 106.433(8)(B)-(D), and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Forty-Four Thousand Two Hundred Dollars (\$44,200) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth

in TEX. WATER CODE § 7.053. The Respondents have paid Two Thousand Two Hundred Dollars (\$2,200) of the administrative penalty. The remaining amount of Forty-Two Thousand Dollars (\$42,000) of the administrative penalty shall be payable in 35 monthly payments of One Thousand Two Hundred Dollars (\$1,200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondents to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms of this Agreed Order.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondents are assessed an administrative penalty in the amount of Forty-Four Thousand Two Hundred Dollars (\$44,200) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Robert Lerma, Jr. and Marta Villarreal dba G S I II, Docket No. 2009-1013-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 Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The Respondents shall undertake the following technical requirements:
  - a. Within 15 days after the effective date of this Agreed Order, submit an administratively complete permit application for the abrasive cleaning and coatings operations, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
- c. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate the abrasive cleaning and coatings operations has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained; and
- d. The certification required by Ordering Provision No. 3.c. shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certifications shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

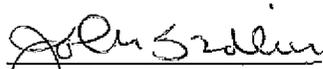
- 4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

5. If the Respondents fail 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.
10. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

12/11/2009  
Date

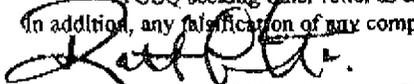
I, the undersigned, have read and understand the attached Agreed Order in the matter of Robert Lerma, Jr. and Marta Villarreal dba G S I II. I am authorized to agree to the attached Agreed Order on behalf of Robert Lerma, Jr. and Marta Villarreal dba G S I II, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Robert Lerma, Jr. and Marta Villarreal dba G S I II waive certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

12.4.09  
Date

Robert Lerma Jr.  
Name (Printed or typed)  
Authorized Representative of  
Robert Lerma, Jr. dba G S I II

OWNER  
Title

  
Signature

12-4-09  
Date

Marta L. Villarreal  
Name (Printed or typed)  
Authorized Representative of  
Marta Villarreal dba G S I II

\_\_\_\_\_  
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.