

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0704-IWD-E **TCEQ ID:** RN102077195 **CASE NO.:** 39567
RESPONDENT NAME: Best Sea-Pack of Texas, Inc.

ORDER TYPE:		
<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	
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: Best Sea Pack of Texas Facility, located on County Road 171 approximately 1.6 miles west of the intersection of County Roads 171 and 203, northeast of the City of Danbury, Brazoria County</p> <p>TYPE OF OPERATION: Wastewater treatment 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 September 20, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0735; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Trung Nhan, President, Best Sea-Pack of Texas, Inc., P.O. Box 139, Danbury, Texas 77534 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: January 17, 2010</p> <p>Date of NOV/NOE Relating to this Case: April 15, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limitations for carbonaceous biochemical oxygen demand, ammonia nitrogen, oil & grease, dissolved oxygen, and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003116000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001 and 101].</p>	<p>Total Assessed: \$26,030</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$1,098 (remaining \$24,932 due in 23 monthly payments of \$1,084 each)</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site 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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0003116000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0003116000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	19-Apr-2010	Screening	27-Apr-2010	EPA Due	
	PCW	27-Apr-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Best Sea-Pack of Texas, Inc.		
Reg. Ent. Ref. No.	RN102077195		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39567	No. of Violations	2
Docket No.	2010-0704-IWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Carlie Konkol
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$19,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	45.0% Enhancement	Subtotals 2, 3, & 7	\$8,550
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Notes: An enhancement is recommended for eight monthly self-reported effluent violations and one NOV with same or similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,112
Approx. Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$27,550
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-5.5%	Adjustment	-\$1,520
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction in the penalty so that monthly self-reported effluent violations do not overly impact the penalty amount and to prevent the double-enhancement of the penalty amount for the same violations that were self-reported.

Final Penalty Amount	\$26,030
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$26,030
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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	\$26,030
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Screening Date: 27-Apr-2010

Docket No.: 2010-0704-IWD-E

PCW

Respondent: Best Sea-Pack of Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No.: 39567

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102077195

Media [Statute]: Water Quality

Enf. Coordinator: Carlie Konkol

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)	9	45%
	Other written NOVs	0	0%
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%
<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	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) 45%

>> 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

An enhancement is recommended for eight monthly self-reported effluent violations and one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 27-Apr-2010

Docket No. 2010-0704-IWD-E

PCW

Respondent Best Sea-Pack of Texas, inc.

Policy Revision 2 (September 2002)

Case ID No. 38567

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102077195

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003116000, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review on January 17, 2010 and shown in the attached Effluent Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3

92 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Three monthly events are recommended for July, August and September 2009.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,112

Violation Final Penalty Total \$20,550

This violation Final Assessed Penalty (adjusted for limits) \$20,550

Economic Benefit Worksheet

Respondent Best Sea-Pack of Texas, Inc.
Case ID No. 39587
Reg. Ent. Reference No. RN102077195
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	30-Jun-2009	31-Jan-2011	1.59	\$53	\$1,059	\$1,112
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to evaluate the wastewater treatment system to identify and repair problems related to the treatment system. The Date Required is the first date of noncompliance. The Final Date is the expected compliance date with permitted effluent limitations.

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 \$1,112

Screening Date 27-Apr-2010

Docket No. 2010-0704-IWD-E

PCW

Respondent Best Sea-Pack of Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39567

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102077195

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0003116000, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001 and Effluent Limitations and Monitoring Requirements No. 1 for Outfall 101

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review on January 17, 2010 and shown in the attached Effluent Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Also, oil and grease, total suspended solids and dissolved oxygen were considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

123 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended for the quarters containing the months of June, October and December 2009 at Outfall 001 and one quarterly event is recommended for the quarter containing the month of August 2009 at Outfall 101.

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 Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,480

This violation Final Assessed Penalty (adjusted for limits) \$5,480

Economic Benefit Worksheet

Respondent Best Sea-Pack of Texas, Inc.
Case ID No. 39567
Reg. Ent. Reference No. RN102077195
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation #1.

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

\$0

TOTAL

\$0

Best Sea-Pack of Texas, Inc.
Docket No. 2010-0704-IWD-E
TPDES Permit No. WQ0003116000

Effluent Table – Outfall 001						
Permitted Effluent Limits	Monitoring Periods					
	June 2009	July 2009	August 2009	September 2009	October 2009	December 2009
5-day CBOD Daily Average Conc. 30 mg/L	C	C	C	71	C	C
5-day CBOD Daily Maximum Conc. 45 mg/L	C	C	C	148	C	C
Ammonia Nitrogen Daily Average Conc. 7.0 mg/L	C	160	75	64	C	21.4
Ammonia Nitrogen Daily Maximum Conc. 11.0 mg/L	13.3	283	95	88	C	23.9
Oil & Grease Daily Average Conc. 15.0 mg/L	C	371	443	501	178	35.2
Oil & Grease Daily Maximum Conc. 20.0 mg/L	27.3	1470	1770	2350	178	95.6
Dissolved Oxygen Minimum Conc. 2.0 mg/L	1.0	0.5	1.6	1.1	1.2	C
TSS Daily Average Conc. 70.0 mg/L	C	110	133	133	C	C
TSS Daily Maximum Conc. 100 mg/L	C	197	188	235	C	C

Outfall 101						
TSS Daily Maximum Conc. 65 mg/L	C	C	152	C	C	C

C – Compliant mg/L – Milligrams per Liter
Conc. – Concentration TSS – Total Suspended Solids
CBOD – Carbonaceous Biochemical Oxygen Demand

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601121478	Best Sea-Pack of Texas, Inc.	Classification: AVERAGE	Rating: 0.18
Regulated Entity:	RN102077195	BEST SEA PACK OF TEXAS FACILITY	Classification: AVERAGE	Site Rating: 0.18

ID Number(s):	WASTEWATER	PERMIT	WQ0003116000
	WASTEWATER	PERMIT	TPDES0105261
	WASTEWATER	PERMIT	TX0105261

Location: LOCATED ON COUNTY ROAD 171 APPROXIMATELY 1.6 MILES WEST OF THE INTERSECTION OF COUNTY ROADS 171 AND 203, NORTHEAST OF THE CITY OF DANBURY, BRAZORIA COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 20, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 20, 2005 to April 20, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Carlie Konkol Phone: (512) 239-0735

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 |
| 6. Rating Date: 9/1/2009 Repeat Violator: NO | |

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	05/05/2005	(426335)
2	06/13/2005	(426336)
3	07/18/2005	(426337)
4	08/22/2005	(446660)
5	09/06/2005	(446661)
6	10/20/2005	(479511)
7	11/14/2005	(479512)
8	12/19/2005	(479513)
9	01/23/2006	(479514)
10	02/10/2006	(479509)
11	03/10/2006	(479510)
12	04/07/2006	(454500)
13	04/10/2006	(505234)
14	05/19/2006	(505235)
15	06/22/2006	(505236)
16	07/24/2006	(527516)
17	09/14/2006	(527518)
18	09/27/2006	(527517)
19	10/17/2006	(551243)
20	11/16/2006	(551244)
21	12/11/2006	(551245)
22	01/18/2007	(587915)
23	02/16/2007	(587911)
24	03/23/2007	(587912)
25	04/26/2007	(587913)
26	05/07/2007	(587914)

27	07/23/2007	(605255)
28	09/07/2007	(605256)
29	09/20/2007	(605257)
30	11/05/2007	(628815)
31	07/31/2008	(731987)
32	08/31/2008	(731989)
33	09/30/2008	(731991)
34	10/03/2008	(731986)
35	10/03/2008	(731988)
36	10/03/2008	(731990)
37	10/27/2008	(731992)
38	11/25/2008	(731993)
39	12/22/2008	(731994)
40	01/22/2009	(755357)
41	02/24/2009	(755356)
42	03/23/2009	(772439)
43	04/27/2009	(772440)
44	05/26/2009	
45	08/21/2009	
46	09/30/2009	
47	09/30/2009	
48	10/28/2009	
49	11/23/2009	
50	12/23/2009	
51	01/26/2010	
52	02/24/2010	
53	03/08/2010	(787891)
54	03/22/2010	
55	04/16/2010	(786122)
56	04/26/2010	

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

Date: 06/30/2009 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2009 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2009 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2009 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2009 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2009 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2010 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 CN601121478
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/05/2010 (787891) CN601121478
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 EL&MR, pg. 2, no. 1 PERMIT
 Description: Failure to maintain compliance with effluent limits from outfall 001 and internal outfall 101. Violations were reported for several parameters for outfall 001 in June, July, August, September and October 2009. In addition, a daily maximum violation for Total Suspended Solids was reported in August 2009 for outfall 101. See Table 1.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to preserve the samples immediately and maintain a log demonstrating they were preserved properly. The samples were being collected and given to Glenwood Laboratory without preservation. The chain of custody did not indicate that the lab was preserving the samples.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to collect Oil and Grease samples as required. Oil and Grease samples must be collected directly into a clean glass jar, that has not been pre-rinsed with sample, with a PTFE-lined screw cap.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 Description: Failure to maintain the chain of custody records for the transfer of the samples from Glenwood Laboratory to Anacon Laboratory.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to maintain dissolved oxygen meter calibration logs. In addition, pH meter calibration and chlorine meter calibration logs were inadequate. The pH calibration logs did not have the correct information. The pH calibration logs must have the date and time the calibration was done, the analyst that conducted the calibration, and the actual value of the buffers used to calibrate the meter. The chlorine standards were not being recorded everyday.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
 Description: Failure to submit the correct information on the Discharge Monitoring Reports (DMRs). The correct values for several different parameters were not submitted. An attempt was made to correct the DMRs on February 17, 2010 but, some of the information was still incorrect. See Table 1 (DMR issues and Corrected DMR issues).

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 M&RR, pg. 4, no. 1 PERMIT
 Description: Failure to submit Discharge Monitoring Reports for January through April 2009 for outfall 101. In addition, DMRs submitted in May through July 2009, for outfall 001, were submitted late. The DMRs are required to be submitted by the 20th day of the following month.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 M&RR, pg. 5, no. 7c PERMIT
 Description: Failure to submit noncompliance notifications for effluent violations that were greater than 40% of the permit limit. Noncompliance notifications were not submitted in June through October 2009 for effluent violations that were greater than 40% of the permit limit. Noncompliance notifications are required to be submitted within 5 working days of becoming aware of the violation, for effluent violations that exceed the permit limit by greater than 40%.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements, pg. 12, no. 5 PERMIT
Description: Failure to collect and analyze four sets of samples for Attachment A In "Other Requirements" of the permit. The four sampling events are required to be conducted at least one week apart.

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
BEST SEA-PACK OF TEXAS, INC.
RN102077195

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0704-IWD-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 Best Sea-Pack of Texas, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has 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 Respondent agrees 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 Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a shrimp processing plant with an associated wastewater treatment facility located on County Road 171 approximately 1.6 miles west of the intersection of County Roads 171 and 203, northeast of Danbury, Brazoria County, Texas (the "Facility").

2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on January 17, 2010, TCEQ staff documented the following effluent exceedances from the monthly self-reported discharge monitoring reports ("DMR"):

Effluent Table - Outfall 001						
Permitted Effluent Limits	Monitoring Periods					
	June 2009	July 2009	August 2009	September 2009	October 2009	December 2009
5-day CBOD Daily Average Conc. 30 mg/L	C	C	C	71	C	C
5-day CBOD Daily Maximum Conc. 45 mg/L	C	C	C	148	C	C
Ammonia Nitrogen Daily Average Conc. 7.0 mg/L	C	160	75	64	C	21.4
Ammonia Nitrogen Daily Maximum Conc. 11.0 mg/L	13.3	283	95	88	C	23.9
Oil & Grease Daily Average Conc. 15.0 mg/L	C	371	443	501	178	35.2
Oil & Grease Daily Maximum Conc. 20.0 mg/L	27.3	1470	1770	2350	178	95.6
Dissolved Oxygen Minimum Conc. 2.0 mg/L	1.0	0.5	1.6	1.1	1.2	C
TSS Daily Average Conc. 70.0 mg/L	C	110	133	133	C	C
TSS Daily Maximum Conc. 100 mg/L	C	197	188	235	C	C
Outfall 101						
TSS Daily Maximum Conc. 65 mg/L	C	C	152	C	C	C

C - Compliant
Conc. - Concentration
CBOD - Carbonaceous Biochemical Oxygen Demand
mg/L - Milligrams per Liter
TSS - Total Suspended Solids

4. The Respondent received notice of the violations on or about April 20, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003116000, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001 and Effluent Limitations and Monitoring Requirements No. 1 for Outfall 101.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent 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.
4. An administrative penalty in the amount of Twenty-Six Thousand Thirty Dollars (\$26,030) 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 Respondent has paid One Thousand Ninety-Eight Dollars (\$1,098) of the administrative penalty.

The remaining amount of Twenty-Four Thousand Nine Hundred Thirty-Two Dollars (\$24,932) of the administrative penalty shall be payable in 23 monthly payments of One Thousand Eighty-Four Dollars (\$1,084) 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 Respondent fails 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 Respondent to meet the payment schedule of this Agreed Order constitutes the failure by Respondent 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 Respondent is assessed an administrative penalty in the amount of Twenty-Six Thousand Thirty Dollars (\$26,030) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's

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: Best Sea-Pack of Texas, Inc., Docket No. 2010-0704-IWD-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. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0003116000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification 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 fine and imprisonment for knowing violations."

The certification 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:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. 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

John Szolter
For the Executive Director

9/2/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Best Sea-Pack of Texas, Inc. I am authorized to agree to the attached Agreed Order on behalf of Best Sea-Pack of Texas, Inc., 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, Best Sea-Pack of Texas, Inc. waives 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.

Trung Nhan
Signature

7-20-10
Date

TRUNG NHAN
Name (Printed or typed)
Authorized Representative of
Best Sea-Pack of Texas, Inc.

President
Title

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