

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1501-AIR-E **TCEQ ID:** RN100754779 **CASE NO.:** 38371

**RESPONDENT NAME:** Orange County Container Group LLC

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <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                    |  |
| <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> Corrugated Services, 855 East US Highway 80, Forney, Kaufman County</p> <p><b>TYPE OF OPERATION:</b> Paper manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 8, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. David A. Nelson, Chief Operating Officer-Paper Group, Orange County Container Group LLC, P.O. Box 847, Forney, Texas 75126<br/> <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><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 6, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 1, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failure to conduct observations of visible emissions. Specifically, during the June 3, 2008 to June 2, 2009 compliance period the Respondent did not conduct opacity readings from the stationary vents not monitored by the Continuous Opacity Monitoring System [30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O-2979, Special Terms and Conditions 3(A)(iv)].</p> <p>2) Failure to submit a complete semi-annual deviation report for the June 3, 2008 through December 2, 2008 and December 3, 2008 through June 2, 2009 reporting periods. Specifically, the Respondent failed to include the deviations regarding the absence of opacity observations and reported 1,245 deviations with non-specific descriptions for the cause of the deviations, corrective actions, and preventative measures taken [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and FOP No. O-2979, General Terms and Conditions].</p> | <p><b>Total Assessed:</b> \$5,162</p> <p><b>Total Deferred:</b> \$1,032<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,130</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. By August 26, 2009, submitted a revised deviation report for the December 3, 2008 to June 2, 2009 reporting period;</p> <p>b. By August 26, 2009, implemented the use of a daily log system to ensure detailed and accurate information is submitted with future deviation reports; and</p> <p>c. On September 9, 2009, conducted the first of the observations for stationary vent opacity and created a log sheet to track observations.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit a complete semi-annual deviation report for the June 3, 2008 through December 2, 2008 reporting periods; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|              |          |             |           |             |         |  |
|--------------|----------|-------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 31-Aug-2009 | Screening | 15-Sep-2009 | EPA Due |  |
|              | PCW      | 10-Sep-2009 |           |             |         |  |

## RESPONDENT/FACILITY INFORMATION

|                             |                                   |                                 |
|-----------------------------|-----------------------------------|---------------------------------|
| <b>Respondent</b>           | Orange County Container Group LLC |                                 |
| <b>Reg. Ent. Ref. No.</b>   | RN100754779                       |                                 |
| <b>Facility/Site Region</b> | 4-Dallas/Fort Worth               | <b>Major/Minor Source</b> Major |

## CASE INFORMATION

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 38371           | <b>No. of Violations</b>     | 2                  |
| <b>Docket No.</b>                      | 2009-1501-AIR-E | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Air             | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                 | <b>Enf. Coordinator</b>      | Kirk Schoppe       |
|  |                 | <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** \$5,000

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

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

**Compliance History** 4.0% Enhancement **Subtotals 2, 3, & 7** \$200

Notes: Penalty enhancement due to two non-similar NOV's.

**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** \$300

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

Total EB Amounts \$289  
Approx. Cost of Compliance \$1,050  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$4,900

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 5.3% **Adjustment** \$262

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated to violation no. 1.

**Final Penalty Amount** \$5,162

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$5,162

**DEFERRAL** 20.0% Reduction **Adjustment** -\$1,032

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** \$4,130

Screening Date 15-Sep-2009

Docket No. 2009-1501-AIR-E

PCW

Respondent Orange County Container Group LLC

Policy Revision 2 (September 2002)

Case ID No. 38371

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100754779

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

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

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 4%

>> 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

Penalty enhancement due to two non-similar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

|  |   |   |                                      |                      |
|--|---|---|--------------------------------------|----------------------|
| <b>Screening Date</b> 15-Sep-2009  | <b>Docket No.</b> 2009-1501-AIR-E   | <b>PCW</b>  |                                      |                      |
| <b>Respondent</b> Orange County Container Group LLC  | <i>Policy Revision 2 (September 2002)</i>   |   |                                      |                      |
| <b>Case ID No.</b> 38371   | <i>PCW Revision October 30, 2008</i>  |   |                                      |                      |
| <b>Reg. Ent. Reference No.</b> RN100754779   |   |   |                                      |                      |
| <b>Media [Statute]</b> Air   |   |   |                                      |                      |
| <b>Enf. Coordinator</b> Kirk Schoppe   |   |   |                                      |                      |
| <b>Violation Number</b> <input type="text" value="1"/>   |   |   |                                      |                      |
| <b>Rule Cite(s)</b>  | 30 Tex. Admin. Code § 122.143(4), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O-2979, Special Terms and Conditions 3(A)(iv)  |   |                                      |                      |
| <b>Violation Description</b>   | Failed to conduct observations of visible emissions. Specifically, during the June 3, 2008 to June 2, 2009 compliance period the Respondent did not conduct opacity readings from the stationary vents not monitored by the Continuous Opacity Monitoring System. |   |                                      |                      |
| <b>Base Penalty</b>  |   | <input type="text" value="\$10,000"/>               |                                      |                      |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>  |   |   |                                      |                      |
| <b>OR</b>  | <b>Harm</b>   |   |                                      |                      |
|  | Release   | Major   | Moderate                             | Minor                |
|  | Actual  | <input type="text"/>                                | <input type="text"/>                 | <input type="text"/> |
|  | Potential   | <input type="text"/>                                | <input type="text"/>                 | x                    |
|  |   | <b>Percent</b>                                      | <input type="text" value="10%"/>     |                      |
| <b>&gt;&gt; Programmatic Matrix</b>  |   |   |                                      |                      |
|  | Falsification   | Major   | Moderate                             | Minor                |
|  | <input type="text"/>  | <input type="text"/>                                | <input type="text"/>                 | <input type="text"/> |
|  |   | <b>Percent</b>                                      | <input type="text" value="0%"/>      |                      |
| <b>Matrix Notes</b>  | Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.  |   |                                      |                      |
| <b>Adjustment</b>  |   | <input type="text" value="\$9,000"/>                |                                      |                      |
|  |   | <input type="text" value="\$1,000"/>                |                                      |                      |
| <b>Violation Events</b>  |   |   |                                      |                      |
|  | <b>Number of Violation Events</b>   | <input type="text" value="3"/>                      | <b>Number of violation days</b>      |                      |
|  |   | <input type="text" value="270"/>                    |                                      |                      |
| <i>mark only one with an x</i>   | daily   | <input type="text"/>                                | <b>Violation Base Penalty</b>        |                      |
|  | weekly  | <input type="text"/>                                |                                      |                      |
|  | monthly   | <input type="text"/>                                |                                      |                      |
|  | quarterly   | <input type="text"/>                                |                                      |                      |
|  | semiannual  | <input type="text"/>                                |                                      |                      |
|  | annual  | <input type="text"/>                                |                                      |                      |
|  | single event  | x   |                                      |                      |
| <input type="text" value="\$3,000"/>   |   |   |                                      |                      |
| Three single events are recommended based on the three quarterly observations due during the period from the date the first observation was due (November 9, 2008) to the screening date (September 15, 2009). |   |   |                                      |                      |
| <b>Good Faith Efforts to Comply</b>  |   | <input type="text" value="10.0%"/> <b>Reduction</b> | <input type="text" value="\$300"/>   |                      |
|  |   | Before NOV  | NOV to EDPRP/Settlement Offer        |                      |
| Extraordinary  | <input type="text"/>  | <input type="text"/>                                |                                      |                      |
| Ordinary   | <input type="text"/>  | x   |                                      |                      |
| N/A  | <input type="text"/>  | (mark with x)                                       |                                      |                      |
| <b>Notes</b>   | The Respondent returned to compliance on September 9, 2009 and the NOE is dated September 1, 2009.  |   |                                      |                      |
| <b>Violation Subtotal</b>  |   | <input type="text" value="\$2,700"/>                |                                      |                      |
| <b>Economic Benefit (EB) for this violation</b>  |   | <b>Statutory Limit Test</b>                         |                                      |                      |
| <b>Estimated EB Amount</b>   | <input type="text" value="\$262"/>  | <b>Violation Final Penalty Total</b>                | <input type="text" value="\$2,971"/> |                      |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b>   |   | <input type="text" value="\$2,971"/>                |                                      |                      |

### Economic Benefit Worksheet

**Respondent** Orange County Container Group LLC  
**Case ID No.** 38371  
**Reg. Ent. Reference No.** RN100754779  
**Media:** Air  
**Violation No.** 1

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

| Item Description: <small>No commas or \$</small> | 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 |  |  |  | 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

**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 | \$300 | 9-Nov-2008 | 9-Sep-2009 | 0.83 | \$12 | \$250 | \$262 |
| 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

Estimated avoided cost to conduct quarterly visible emissions observations. Date required is the date the first quarterly observation was due. Final date is the date of compliance.

Approx. Cost of Compliance

\$300

**TOTAL**

\$262

|  |   |   |  |  |                      |
|--|---|---|--|--|----------------------|
| <b>Screening Date</b> 15-Sep-2009  | <b>Docket No.</b> 2009-1501-AIR-E   | <b>PCW</b>                                |  |  |                      |
| <b>Respondent</b> Orange County Container Group LLC  | <small>Policy Revision 2 (September 2002)</small>   |   |  |  |                      |
| <b>Case ID No.</b> 38371   | <small>PCW Revision October 30, 2008</small>  |   |  |  |                      |
| <b>Reg. Ent. Reference No.</b> RN100754779   |   |   |  |  |                      |
| <b>Media [Statute]</b> Air   |   |   |  |  |                      |
| <b>Enf. Coordinator</b> Kirk Schoppe   |   |   |  |  |                      |
| <b>Violation Number</b>  | 2   |   |  |  |                      |
| <b>Rule Cite(s)</b>  | 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and FOP No. O-2979, General Terms and Conditions   |   |  |  |                      |
| <b>Violation Description</b>   | Failed to submit a complete semi-annual deviation report for the June 3, 2008 through December 2, 2008 and December 3, 2008 through June 2, 2009 reporting periods, as documented during an investigation conducted on August 6, 2009. Specifically, the Respondent failed to include the deviations regarding the absence of opacity observations and reported 1,245 deviations with non-specific descriptions for the cause of the deviations, corrective actions, and preventative measures taken. |   |  |  |                      |
| <b>Base Penalty</b>  |   | \$10,000                                  |  |  |                      |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>  |   |   |  |  |                      |
| <b>OR</b>  | <b>Harm</b>   |   |  |  |                      |
|  | Release   | Major                                     | Moderate                                   | Minor  |                      |
|  | Actual  | <input type="text"/>                      | <input type="text"/>                       | <input type="text"/>   |                      |
|  | Potential   | <input type="text"/>                      | <input type="text"/>                       | <input type="text"/>   |                      |
|  |   |   |  | <b>Percent</b> <input type="text" value="0%"/>                     |                      |
| <b>&gt;&gt; Programmatic Matrix</b>  |   |   |  |  |                      |
|  |   | Falsification                             | Major                                      | Moderate   | Minor                |
|  |   | <input type="text"/>                      | <input type="text"/>                       | <input checked="" type="text" value="x"/>                          | <input type="text"/> |
|  |   |   |  | <b>Percent</b> <input type="text" value="10%"/>                    |                      |
| <b>Matrix Notes</b>  | 30% to 70% of the rule requirement was met.   |   |  |  |                      |
| <b>Adjustment</b>  |   |   |  | \$9,000  |                      |
|  |   |   |  | \$1,000  |                      |
| <b>Violation Events</b>  |   |   |  |  |                      |
| <b>Number of Violation Events</b>  |   | <input type="text" value="2"/>            | <b>Number of violation days</b>            |  |                      |
|  |   | <input type="text" value="236"/>          |  |  |                      |
| <small>mark only one with an x</small>   | daily   | <input type="text"/>                      |  |  |                      |
|  | weekly  | <input type="text"/>                      |  |  |                      |
|  | monthly   | <input type="text"/>                      |  |  |                      |
|  | quarterly   | <input type="text"/>                      |  |  |                      |
|  | semiannual  | <input type="text"/>                      |  |  |                      |
|  | annual  | <input type="text"/>                      |  |  |                      |
|  | single event  | <input checked="" type="text" value="x"/> |  |  |                      |
|  |   |   |  | <b>Violation Base Penalty</b> <input type="text" value="\$2,000"/> |                      |
| Two single events are recommended based on the two incomplete semi-annual deviation reports submitted. |   |   |  |  |                      |
| <b>Good Faith Efforts to Comply</b>  |   | <input type="text" value="0.0%"/>         | <b>Reduction</b>                           |  |                      |
|  |   | <input type="text" value="0.0%"/>         | \$0  |  |                      |
|  |   | <input type="text"/>                      | Before NOV    NOV to EDRP/Settlement Offer |  |                      |
| Extraordinary  |   | <input type="text"/>                      |  |  |                      |
| Ordinary   |   | <input type="text"/>                      |  |  |                      |
| N/A  |   | <input checked="" type="text" value="x"/> | (mark with x)                              |  |                      |
| <b>Notes</b>   | The Respondent does not meet the good faith criteria for this violation.  |   |  |  |                      |
| <b>Violation Subtotal</b>  |   |   |  | \$2,000  |                      |
| <b>Economic Benefit (EB) for this violation</b>  |   |   | <b>Statutory Limit Test</b>                |  |                      |
| <b>Estimated EB Amount</b>   |   | <input type="text" value="\$26"/>         | <b>Violation Final Penalty Total</b>       |  |                      |
|  |   | <input type="text" value="\$26"/>         | \$2,191                                    |  |                      |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b>                                     |   |   |  | \$2,191  |                      |

## Economic Benefit Worksheet

**Respondent** Orange County Container Group LLC  
**Case ID No.** 38371  
**Reg. Ent. Reference No.** RN100754779  
**Media** Air  
**Violation No.** 2

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

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**  
**Item Description:** 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    | \$250 | 1-Jan-2009 | 26-Aug-2009 | 0.65 | \$8  | n/a | \$8  |
| 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)        | \$250 | 1-Jan-2009 | 15-Jun-2010 | 1.45 | \$18 | n/a | \$18 |

**Notes for DELAYED costs**  
 Estimated cost of preparation and submittal of a complete semi-annual deviation report. The date required is the date the first semi-annual deviation report was due. The final date of August 26, 2009 is the date of compliance. The final date of June 15, 2010 is the expected date of compliance for the submittal of a complete semi-annual deviation report for the June 3, 2008 to December 2, 2008 reporting period.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**    \$500

**TOTAL**    \$26

# Compliance History Report Pending

|                                     |                         |                                   |                         |                   |
|-------------------------------------|-------------------------|-----------------------------------|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN603424292             | Orange County Container Group LLC | Classification: AVERAGE | Rating: 2.92      |
| Regulated Entity:                   | RN100754779             | CORRUGATED SERVICES               | Classification: AVERAGE | Site Rating: 0.33 |
| ID Number(s):                       | AIR NEW SOURCE PERMITS  | PERMIT                            |                         | 23890             |
|                                     | AIR NEW SOURCE PERMITS  | PERMIT                            |                         | 40561             |
|                                     | AIR NEW SOURCE PERMITS  | ACCOUNT NUMBER                    |                         | KB0156B           |
|                                     | AIR NEW SOURCE PERMITS  | AFS NUM                           |                         | 4825700031        |
|                                     | AIR NEW SOURCE PERMITS  | PERMIT                            |                         | 53953             |
|                                     | AIR NEW SOURCE PERMITS  | REGISTRATION                      |                         | 77162             |
|                                     | AIR NEW SOURCE PERMITS  | PERMIT                            |                         | 80892             |
|                                     | AIR NEW SOURCE PERMITS  | REGISTRATION                      |                         | 84013             |
|                                     | AIR OPERATING PERMITS   | PERMIT                            |                         | 2979              |
|                                     | AIR OPERATING PERMITS   | ACCOUNT NUMBER                    |                         | KB1056B           |
|                                     | AIR OPERATING PERMITS   | PERMIT                            |                         | 2979              |
|                                     | AIR EMISSIONS INVENTORY | ACCOUNT NUMBER                    |                         | KB0156B           |

Location: 855 E US HIGHWAY 80, FORNEY, TX, 75126

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 17, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 17, 2004 to September 17, 2009

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

Name: Kirk Schoppe Phone: 239 - 0489

### 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: 9/1/2009 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  | 11/09/2004 | (339889) |
| 2  | 03/23/2005 | (350324) |
| 3  | 03/23/2005 | (350604) |
| 4  | 02/22/2006 | (455552) |
| 5  | 04/06/2006 | (460200) |
| 6  | 04/06/2006 | (460359) |
| 7  | 06/21/2006 | (467613) |
| 8  | 02/25/2008 | (616147) |
| 9  | 12/17/2008 | (700891) |
| 10 | 12/22/2008 | (709428) |
| 11 | 08/28/2009 | (765735) |

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

Date: 01/05/2009 (709428) CN603424292  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 17.B.(1)(b), (d), (e) PERMIT  
Description: Failure to give the TCEQ DFW Regional Office not less than 30 days prior notice to schedule a pretest meeting. The TCEQ DFW Regional Office received the testing protocol on October 20, 2008. The test event occurred on October 27, 2008. The notice received on September 29, 2008 failed to include the correct date sampling will occur, the type of sampling equipment to be used, and the method or procedure to be used in sampling.

Date: 04/29/2009 (738831) CN603424292  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)  
TXR050000 PERMIT  
Description: Failure to implement good housekeeping measures to reduce/eliminate the exposure of garbage and refuse to runoff. Specifically, debris and trash from the raw material storage area is accumulating in drainage ditch to Outfall #2. (MSGP Part III, Section A(5)(a))

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  
ORANGE COUNTY CONTAINER  
GROUP LLC  
RN100754779

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-1501-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 Orange County Container Group LLC ("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 paper manufacturing plant at 855 East US Highway 80 in Forney, Kaufman 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 September 6, 2009.
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 Five Thousand One Hundred Sixty-Two Dollars (\$5,162) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand One Hundred Thirty Dollars (\$4,130)

of the administrative penalty and One Thousand Thirty-Two Dollars (\$1,032) 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 the Respondent has implemented the following corrective measures at the Plant:
  - a. By August 26, 2009, submitted a revised deviation report for the December 3, 2008 to June 2, 2009 reporting period;
  - b. By August 26, 2009, implemented the use of a daily log system to ensure detailed and accurate information is submitted with future deviation reports; and
  - c. On September 9, 2009, conducted the first of the observations for stationary vent opacity and created a log sheet to track observations.
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:

1. Failed to conduct observations of visible emissions, in violation of 30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O-2979, Special Terms and Conditions 3(A)(iv), as documented during an investigation conducted on August 6, 2009. Specifically, during the June 3, 2008 to June 2, 2009 compliance period the Respondent did not conduct opacity readings from the stationary vents not monitored by the Continuous Opacity Monitoring System.
2. Failed to submit a complete semi-annual deviation report for the June 3, 2008 through December 2, 2008 and December 3, 2008 through June 2, 2009 reporting periods, in violation of 30 TEX.

ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-2979, General Terms and Conditions, as documented during an investigation conducted on August 6, 2009. Specifically, the Respondent failed to include the deviations regarding the absence of opacity observations and reported 1,245 deviations with non-specific descriptions for the cause of the deviations, corrective actions, and preventative measures taken.

### 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: Orange County Container Group LLC, Docket No. 2009-1501-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit a complete semi-annual deviation report for the June 3, 2008 through December 2, 2008 reporting periods;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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 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:

Air Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

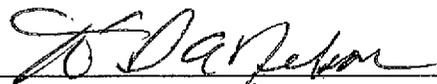
2/8/2010  
Date

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

12/22/09  
Date

DAVID A. NELSON  
Name (Printed or typed)  
Authorized Representative of  
Orange County Container Group LLC

CHIEF OPERATING OFFICER -  
Title PAPER GROUP

**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.

