

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1337-IWD-E TCEQ ID: RN102184041 CASE NO.: 38165
RESPONDENT NAME: PILGRIM'S PRIDE CORPORATION

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Pilgrim's Pride Northeast Texas Complex WWTP, southwest of Mount Pleasant on the north side of Farm-to-Market Road 127 and approximately 500 feet east of Tankersley Creek, Titus County</p> <p>TYPE OF OPERATION: Industrial wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 22, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Doug Brown, V.P. Poultry By-Products, PILGRIM'S PRIDE CORPORATION, 4845 U.S. Highway 271 North, Pittsburg, Texas 75686 Mr. J. Clinton Rivers, President and CEO, PILGRIM'S PRIDE CORPORATION, 4845 U.S. Highway 271 North, Pittsburg, Texas 75686 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigations Relating to this Case: May 20 through June 2, 2009</p> <p>Date of NOE Relating to this Case: July 31, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to prevent the unauthorized discharge of industrial waste to water in the state. Specifically, an unauthorized discharge of approximately 400,000 gallons of industrial wastewater occurred from storm water outfall 003 during a power outage on May 27, 2009. A second discharge of approximately 112,000 gallons occurred on July 17, 2009. The wastewater flowed through the outfall into Tankersley Creek [TEX. WATER CODE § 26.121(a)(1)].</p> <p>2) Failure to comply with permitted effluent limits for ammonia-nitrogen and total suspended solids ("TSS") [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 03017, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)(1)].</p> <p>3) Failure to submit notifications for any noncompliance which is 40% or more over the permitted effluent limit. Specifically, monitoring results for TSS were 40% over the permitted limit for the monitoring period ending April 30, 2009, and a noncompliance notification was not submitted [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 03017, Monitoring and Reporting No. 7.b].</p>	<p>Total Assessed: \$43,700</p> <p>Total Deferred: \$8,740 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>On or about December 1, 2008, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code.</p> <p>(\$34,960 due pending outcome of bankruptcy proceedings)</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) By June 1, 2009, began maintaining weekly records of the sludge lagoon level in the operators' daily log;</p> <p>b) By June 2, 2009, provided monthly records of sludge disposal;</p> <p>c) By August 28, 2009, updated operational guidance and conducted employee training to ensure that noncompliance notifications are submitted as required; and</p> <p>d) By October 7, 2009, submitted documentation demonstrating that the Facility's aeration basin had been repaired.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 90 days after the effective date of this Agreed Order:</p> <p>i) Secure back-up power capability at the Facility to supplement the measures currently in place to prevent discharges of waste during electrical power failures; and</p> <p>ii) Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. 03017, 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> <p>b) Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records</p>

<p>4) Failure to properly operate and maintain all facilities and systems of treatment and control which are installed and used by the permittee to achieve compliance with the conditions of the permit. Specifically, the investigator observed wastewater seeping from the side walls of the Facility's aeration basin [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. 03017, Operational Requirements No. 1].</p> <p>5) Failure to maintain weekly records of the sludge lagoon level. Specifically, weekly records of sludge lagoon levels were not available when requested during the investigation [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 03017, Other Requirements No. 6].</p> <p>6) Failure to maintain records of sludge disposal. Specifically, monthly records of sludge disposal were not available when requested during the investigation [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 03017, Other Requirements No. 2].</p>		<p>to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.ii.</p>
---	--	--

Additional ID No(s): WQ0003017000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Aug-2009		
	PCW	26-Oct-2009	Screening	17-Aug-2009
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	PILGRIM'S PRIDE CORPORATION
Reg. Ent. Ref. No.	RN102184041
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38165	No. of Violations	6
Docket No.	2009-1337-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Evette Alvarado
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$21,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 80.0% Enhancement **Subtotals 2, 3, & 7** \$16,800

Notes: Enhancement recommended for one NOV with violations same or similar as those cited in this case and .15 self-reported monthly effluent violations.

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** \$1,600

Economic Benefit 50.0% Enhancement **Subtotal 6** \$10,500

Total EB Amounts \$30,669
 Approx. Cost of Compliance \$445,855
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$46,700

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$46,700

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$43,700

DEFERRAL 20.0% Reduction **Adjustment** -\$8,740

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 \$34,960

Screening Date 17-Aug-2009

Docket No. 2009-1337-IWD-E

PCW

Respondent PILGRIM'S PRIDE CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 38165

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184041

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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)	16	80%
	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 judgments 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) 80%

>> 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

Enhancement recommended for one NOV with violations same or similar as those cited in this case and 15 self-reported monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 80%

Screening Date 17-Aug-2009	Docket No. 2009-1337-IWD-E	PCW
Respondent PILGRIM'S PRIDE CORPORATION		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 38165		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN102184041		
Media [Statute] Water Quality		
Enf. Coordinator Evette Alvarado		
Violation Number	1	
Rule Cite(s)	Tex. Water Code § 26.121(a)(1)	
Violation Description	Failed to prevent the unauthorized discharge of industrial waste to water in the state, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, an unauthorized discharge of approximately 400,000 gallons of industrial wastewater occurred from storm water outfall 003 during a power outage on May 27, 2009. A second discharge of approximately 112,000 gallons occurred on July 17, 2009. The wastewater flowed through the outfall into Tankersley Creek.	
Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release Major Moderate Minor	
Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>
	Percent	50%
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="checkbox"/>	<input type="checkbox"/>
	Percent	0%
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants that do not exceed protective levels as a result of this violation. Tankersley Creek is on the 303(d) list of impaired waters for bacteria.	
Adjustment	\$5,000	
\$5,000		
Violation Events		
Number of Violation Events	2	Number of violation days 2
<small>mark only one with an x</small>	daily	<input checked="" type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
	Violation Base Penalty	\$10,000
Two daily events are recommended based on the dates of the discharges (May 27, 2009 and July 17, 2009).		
Good Faith Efforts to Comply		
	0.0% Reduction	\$0
	Before NOV NOV to EOPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal	\$10,000	
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	\$21,432	Violation Final Penalty Total \$23,000
		This violation Final Assessed Penalty (adjusted for limits) \$20,000

Economic Benefit Worksheet

Respondent PILGRIM'S PRIDE CORPORATION
Case ID No. 38165
Reg. Ent. Reference No. RN102184041
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description: No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$317,300	27-May-2009	14-May-2010	0.96	\$1,020	\$20,400	\$21,420
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	\$250	27-May-2009	14-May-2010	0.96	\$12	n/a	\$12
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 (1) update operational guidance and conduct employee training to ensure that wastewater from the processing plant is diverted to the equalization tank in the event of a power failure at the Facility and (2) actual cost to secure back-up power capability at the Facility to supplement the measures that are currently in place. Date required is the date of the first discharge. Final date is the expected date of compliance.

Avoided Costs

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

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

\$317,550

TOTAL

\$21,432

Screening Date 17-Aug-2009 **Docket No.** 2009-1337-IWD-E **PCW**

Respondent PILGRIM'S PRIDE CORPORATION *Policy Revision 2 (September 2002)*

Case ID No. 38165 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102184041

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 03017, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during an investigation conducted between May 20 and June 2, 2009, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also 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 \$7,500

\$2,500

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9,208

Violation Final Penalty Total \$5,750

This violation Final Assessed Penalty (adjusted for limits) \$5,750

Economic Benefit Worksheet

Respondent PILGRIM'S PRIDE CORPORATION
Case ID No. 38165
Reg. Ent. Reference No. RN102184041
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Item Description: No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$128,655	30-Apr-2009	14-May-2010	1.04	\$438	\$8,768	\$9,206
Buildings	\$0			0.00	\$0	\$0	\$0
Other (as needed)	\$0			0.00	\$0	\$0	\$0
Engineering/construction	\$0			0.00	\$0	\$0	\$0
Land	\$0			0.00	\$0	n/a	\$0
Record Keeping System	\$0			0.00	\$0	n/a	\$0
Training/Sampling	\$0			0.00	\$0	n/a	\$0
Remediation/Disposal	\$0			0.00	\$0	n/a	\$0
Permit Costs	\$0			0.00	\$0	n/a	\$0
Other (as needed)	\$0			0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Actual cost to install an oxygen delivery system to the aeration basin and conduct a site survey to determine additional causes of noncompliance. Date required is the first month of permit exceedances. Final date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal	\$0			0.00	\$0	\$0	\$0
Personnel	\$0			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$0			0.00	\$0	\$0	\$0
Supplies/equipment	\$0			0.00	\$0	\$0	\$0
Financial Assurance [2]	\$0			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$0			0.00	\$0	\$0	\$0
Other (as needed)	\$0			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$126,655	TOTAL	\$9,206
-----------------------------------	-----------	--------------	---------

Screening Date 17-Aug-2009	Docket No. 2009-1337-IWD-E	PCW		
Respondent PILGRIM'S PRIDE CORPORATION		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 38165		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN102184041				
Media [Statute] Water Quality				
Enf. Coordinator Evette Alvarado				
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 03017, Monitoring and Reporting No. 7.b			
Violation Description	Failed to submit notifications for any noncompliance which is 40% or more over the permitted effluent limit, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, monitoring results for total suspended solids were 40% over the permitted limit for the monitoring period ending April 30, 2009, and a noncompliance notification was not submitted.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="25%"/>
Matrix Notes	100% of the permit requirement was not met.			
Adjustment				\$7,500
				\$2,500
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="20"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	weekly	<input type="checkbox"/>	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	<input type="checkbox"/>	
single event	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
One single event is recommended.				
Good Faith Efforts to Comply		<input type="text" value="10.0%"/>	Reduction	<input type="text" value="\$250"/>
		<small>Before NOV</small>	<small>NOV to EDRP/Saltlement Offer</small>	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	<small>(mark with x)</small>		
Notes	The Respondent returned to compliance by August 28, 2009.			
Violation Subtotal				\$2,250
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$4"/>	Violation Final Penalty Total	<input type="text" value="\$5,500"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$5,500"/>	

Economic Benefit Worksheet

Respondent PILGRIM'S PRIDE CORPORATION
Case ID No. 38165
Reg. Ent. Reference No. RN102184041
Media Water Quality
Violation No. 3

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	\$250	5-May-2009	28-Aug-2009	0.32	\$4	n/a	\$4
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 update operational guidance and conduct employee training to ensure that noncompliance notifications are submitted as required. Date required is the date the first notification was due. Final date is the date compliance was achieved.

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	\$250	TOTAL	\$4
-----------------------------------	-------	--------------	-----

Screening Date 17-Aug-2009	Docket No. 2009-1337-IWD-E	PCW		
Respondent PILGRIM'S PRIDE CORPORATION		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 38165		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN102184041				
Media [Statute] Water Quality				
Enf. Coordinator Evelte Alvarado				
Violation Number 4				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. 03017, Operational Requirements No. 1			
Violation Description	Failed to properly operate and maintain all facilities and systems of treatment and control which are installed and used by the permittee to achieve compliance with the conditions of the permit, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, the investigator observed wastewater seeping from the side walls of the Facility's aeration basin.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
				Percent 10%
>> Programmatic Matrix				
			Falsification	Major
			Moderate	Minor
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
				Percent 0%
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels as a result of this violation.			
Adjustment			\$9,000	
			\$1,000	
Violation Events				
Number of Violation Events		1	Number of violation days 89	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input checked="" type="checkbox"/>		
One single event is recommended based on documentation of the violation during the investigation on May 20, 2009.				
Good Faith Efforts to Comply		10.0% Reduction	\$100	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
N/A	(mark with x)			
Notes	The Respondent returned to compliance by October 7, 2009.			
Violation Subtotal			\$900	
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		\$27	Violation Final Penalty Total \$2,200	
This violation Final Assessed Penalty (adjusted for limits)			\$2,200	

Economic Benefit Worksheet

Respondent PILGRIM'S PRIDE CORPORATION
Case ID No. 38165
Reg. Ent. Reference No. RN102184041
Media Water Quality
Violation No. 4

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	20-May-2009	7-Oct-2009	0.38	\$1	\$26	\$27
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

Estimated cost to make necessary repairs to the aeration basin to prevent wastewater leaks. Date required is the date of the investigation. Final date is the date compliance was achieved.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1,000	TOTAL	\$27
-----------------------------------	---------	--------------	------

Screening Date 17-Aug-2009	Docket No. 2009-1337-IWD-E	PCW			
Respondent PILGRIM'S PRIDE CORPORATION	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 38165	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN102184041					
Media [Statute] Water Quality					
Enf. Coordinator Evette Alvarado					
Violation Number	5				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 03017, Other Requirements No. 6				
Violation Description	Failed to maintain weekly records of the sludge lagoon level, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, weekly records of sludge lagoon levels were not available when requested during the investigation.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				0%
	Potential				
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent
		x			
Matrix Notes	100% of the permit requirement was not met.				
Adjustment					\$7,500
					\$2,500
Violation Events					
Number of Violation Events		1	Number of violation days		
		89			
<i>mark only one with an x</i>	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			
One single event is recommended based on documentation of the violation during the investigation.					Violation Base Penalty
					\$2,500
Good Faith Efforts to Comply		25.0%	Reduction		\$625
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary					
Ordinary	x				
N/A		(mark with x)			
Notes	The Respondent returned to compliance by June 1, 2009.				
Violation Subtotal					\$1,875
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$0	Violation Final Penalty Total		\$5,125
This violation Final Assessed Penalty (adjusted for limits)					\$5,125

Economic Benefit Worksheet

Respondent PILGRIM'S PRIDE CORPORATION
Case ID No. 38165
Reg. Ent. Reference No. RN102184041
Media Water Quality
Violation No. 5

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$200	20-May-2009	1-Jun-2009	0.03	\$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 cost of maintaining weekly records of the sludge lagoon level. Date required is the date of the investigation. Final date is the date records began being maintained in the operators' daily log.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$200	TOTAL	\$0
-----------------------------------	-------	--------------	-----

Screening Date 17-Aug-2009	Docket No. 2009-1337-IWD-E	PCW			
Respondent PILGRIM'S PRIDE CORPORATION	<small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>				
Case ID No. 38165					
Reg. Ent. Reference No. RN102184041					
Media [Statute] Water Quality					
Enf. Coordinator Evette Alvarado					
Violation Number 6					
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 03017, Other Requirements No. 2				
Violation Description	Failed to maintain records of sludge disposal, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, monthly records of sludge disposal were not available when requested during the investigation.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		Percent	0%		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input checked="" type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	25%		
Matrix Notes	100% of the rule requirement was not met.				
		Adjustment	\$7,500		
					\$2,500
Violation Events					
Number of Violation Events		1	Number of violation days		
		89			
<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"/>			
		Violation Base Penalty	\$2,500		
One single event is recommended based on documentation of the violation during the investigation.					
Good Faith Efforts to Comply		25.0%	Reduction		\$625
		Before NOV	NOV to EOPRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input checked="" type="text"/>				
N/A	<input type="text"/>	<small>(mark with x)</small>			
Notes	The Respondent returned to compliance on June 2, 2009.				
		Violation Subtotal	\$1,875		
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$0	Violation Final Penalty Total		\$5,125
		This violation Final Assessed Penalty (adjusted for limits)		\$5,125	

Economic Benefit Worksheet

Respondent PILGRIM'S PRIDE CORPORATION
Case ID No. 38165
Reg. Ent. Reference No. RN102184041
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$200	20-May-2009	2-Jun-2009	0.04	\$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 cost of maintaining monthly sludge disposal records on site. Date required is the date of the investigation. Final date is the date sludge disposal records were obtained from Terra Renewal Services, the owner of the sludge land application site.

Avoided Costs

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

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

\$200

TOTAL:

\$0

PILGRIM'S PRIDE CORPORATION
 TPDES Permit No. 03017
 Docket No. 2009-1337-IWD-E
 Case No. 38165

EFFLUENT VIOLATION TABLE				
Months	NH₃-N Daily Ave. Loading (limit 25 lbs/day)	NH₃-N Daily Max. (limit 50 lbs/day)	TSS Daily Ave. Loading (limit 376 lbs/day)	TSS Daily Max. (limit 751 lbs/day)
04/30/2009	c	56	547	1,660

NH₃-N= ammonia
 nitrogen
 TSS = total
 suspended solids

Ave. = average

lbs/day = pounds per day

Max. = maximum

c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601276660	PILGRIM'S PRIDE CORPORATION	Classification: AVERAGE	Rating: 3.25
Regulated Entity:	RN102184041	PILGRIMS PRIDE NORTHEAST TEXAS COMPLEX WWTP	Classification: AVERAGE	Site Rating: 0.88
ID Number(s):	WASTEWATER	PERMIT	WQ0003017000	
	WASTEWATER	PERMIT	TX0062936000	
	WASTEWATER	PERMIT	TX0062936	
	WASTEWATER LICENSING	LICENSE	WQ0003017000	
Location:	Southwest of Mt. Pleasant, north side of FM 127, approx. 500 ft. east of Tankersley Creek, Titus Co., Tx			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	November 13, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 13, 2004 to November 13, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Evette Alvarado</u>	Phone:	<u>512 - 239 - 2573</u>	

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
 - See addendum for information regarding federal actions.
- 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	09/19/2004	(357872)
2	11/19/2004	(582935)
3	12/20/2004	(385009)
4	12/29/2004	(357873)
5	01/24/2005	(385010)
6	02/18/2005	(385008)
7	03/18/2005	(582914)
8	04/20/2005	(582917)
9	06/20/2005	(582923)
10	06/25/2005	(582920)
11	07/08/2005	(398827)
12	07/20/2005	(582926)
13	08/24/2005	(582929)
14	09/20/2005	(582931)
15	10/20/2005	(582933)
16	11/18/2005	(582936)
17	12/20/2005	(582938)
18	01/19/2006	(582939)
19	02/16/2006	(582912)
20	03/17/2006	(582915)
21	04/17/2006	(582918)
22	05/18/2006	(582921)
23	06/21/2006	(582924)
24	07/20/2006	(582927)
25	08/17/2006	(582930)

26 09/20/2006 (582932)
 27 10/19/2006 (582934)
 28 11/20/2006 (582937)
 29 11/29/2006 (532358)
 30 01/22/2007 (582940)
 31 02/20/2007 (582913)
 32 03/20/2007 (582916)
 33 04/20/2007 (582919)
 34 05/21/2007 (582922)
 35 06/21/2007 (582925)
 36 07/17/2007 (582928)
 37 09/20/2007 (608354)
 38 10/23/2007 (608355)
 39 07/16/2008 (685285)
 40 07/30/2009 (762133)

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

Date: 06/30/2005 (582926) CN601276660
 Self 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: 07/31/2005 (582929) CN601276660
 Self 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: 08/31/2005 (582931) CN601276660
 Self 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: 12/31/2005 (582939) CN601276660
 Self 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: 02/28/2006 (582915) CN601276660
 Self 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: 03/31/2006 (582918) CN601276660
 Self 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: 04/30/2006 (582921) CN601276660
 Self 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: 06/30/2006 (582927) CN601276660
 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: 10/31/2006 (582937) CN601276660
 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: 07/31/2007 (608354) CN601276660
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2007 (608354) CN601276660
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2007 (608354) CN601276660
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2008 (608354) CN601276660
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2008 (608354) CN601276660
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/16/2008 (685285) CN601276660
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to maintain the treatment units at this wastewater treatment plant in good repair. The biotower has rusted areas on it. The side walls on the aeration basin were leaking wastewater on the ground around the treatment unit. A chemical storage tank had a damaged area on it. The buildings and the treatment units were showing signs of deterioration and neglect. The overall condition of this wastewater treatment plant was poor.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to maintain a minimum of 24 inches of freeboard in the sludge lagoon. The sludge lagoon was observed to be full to the top of the berm.
 Self Report? NO Classification: Minor
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to maintain the berm around the sludge lagoon in good condition. An area was observed where dirt was added to an eroded area of the berm. Also sludge residue was observed in the ditch that drains off the property.
 Self Report? NO Classification: Minor
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(6)
 Description: Failure to maintain the outfall at Tankersly Creek.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(6)
 Description: Failure to provide a site map of the Pilgrim's Pride North East Texas Complex Wastewater Treatment Plant(WWTP).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(6)
 30 TAC Chapter 312, SubChapter A 312.6
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to provide the irrigation record of the liquid from the sludge lagoon.
 Date: 04/30/2009 (608354) CN601276660
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

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
PILGRIM'S PRIDE CORPORATION
RN102184041

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1337-IWD-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 PILGRIM'S PRIDE CORPORATION ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates an industrial wastewater treatment facility southwest of Mount Pleasant on the north side of Farm-to-Market Road 127 and approximately 500 feet east of Tankersley Creek in Titus 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. 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 August 5, 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 Forty-Three Thousand Seven Hundred Dollars (\$43,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). On or about December 1, 2008, the Respondent filed a petition for bankruptcy

relief pursuant to Chapter 11 of the United States Code. The Automatic Stay imposed by the Federal Bankruptcy Code (specifically, 11 USC § 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 101 (27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's Environmental Protection Laws, and in seeking to liquidate its damages for such violations. So long as the Debtor's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where the Debtor's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General. Eight Thousand Seven Hundred Forty Dollars (\$8,740) may be deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. Any 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 upon approval by the bankruptcy court.

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 Facility:
 - a. By June 1, 2009, began maintaining weekly records of the sludge lagoon level in the operators' daily log;
 - b. By June 2, 2009, provided monthly records of sludge disposal;
 - c. By August 28, 2009, updated operational guidance and conducted employee training to ensure that noncompliance notifications are submitted as required; and
 - d. By October 7, 2009, submitted documentation demonstrating that the Facility's aeration basin had been repaired.
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 Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of industrial waste to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, an unauthorized discharge of approximately 400,000 gallons of industrial wastewater occurred from storm water outfall 003 during a power outage on May 27, 2009. A second discharge of approximately 112,000 gallons occurred on July 17, 2009. The wastewater flowed through the outfall into Tankersley Creek.
2. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 03017, Effluent Limitations and Monitoring Requirements No. 1, as documented during an investigation conducted between May 20 and June 2, 2009, and shown in the following table:

EFFLUENT VIOLATION TABLE				
Months	NH3-N Daily Ave. Loading (limit 25 lbs/day)	NH3-N Daily Max. (limit 50 lbs/day)	TSS Daily Ave. Loading (limit 376 lbs/day)	TSS Daily Max. (limit 751 lbs/day)
04/30/2009	c	56	547	1,660

NH3-N= ammonia nitrogen
TSS = total suspended solids

Ave. = average

lbs/day = pounds per day

Max. = maximum

c = compliant

3. Failed to submit notifications for any noncompliance which is 40% or more over the permitted effluent limit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 03017, Monitoring and Reporting No. 7.b, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, monitoring results for total suspended solids were 40% over the permitted limit for the monitoring period ending April 30, 2009, and a noncompliance notification was not submitted.
4. Failed to properly operate and maintain all facilities and systems of treatment and control which are installed and used by the permittee to achieve compliance with the conditions of the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. 03017, Operational Requirements No. 1, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, the investigator observed wastewater seeping from the side walls of the Facility's aeration basin.
5. Failed to maintain weekly records of the sludge lagoon level, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 03017, Other Requirements No. 6, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, weekly records of sludge lagoon levels were not available when requested during the investigation.
6. Failed to maintain records of sludge disposal, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 03017, Other Requirements No. 2, as documented during an investigation conducted between May 20 and June 2, 2009. Specifically, monthly records of sludge disposal were not available when requested during the investigation.

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 be assessed an administrative penalty as set forth in Section I, Paragraph 6 above. The assessment 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 may be made payable to "TCEQ" and sent with the notation "Re: PILGRIM'S PRIDE CORPORATION, Docket No. 2009-1337-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 undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order:
 - i. Secure back-up power capability at the Facility to supplement the measures currently in place to prevent discharges of waste during electrical power failures; and
 - ii. Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. 03017, 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.
 - b. Within 105 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 Nos. 2.a.i. through 2.a.ii. 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 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:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

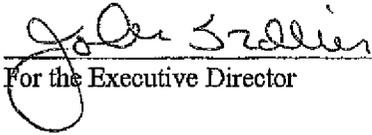
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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. 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

Date 3/9/2010

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 is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order 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;
- 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

Date 1-15-2010

DOUG BROWN

Name (Printed or typed)
Authorized Representative of
PILGRIM'S PRIDE CORPORATION

V.P. POULTRY BY-PRODUCTS

Title

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

