

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1747-IWD-E **TCEQ ID:** RN100209386 **CASE NO.:** 38603

RESPONDENT NAME: Evonik Degussa 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: Degussa Engineered Carbons Orange Carbon Black Plant, located adjacent to Farm-to-Market Road 736, approximately two miles east of the intersection of State Highway 87 and Farm-to-Market Road 3247, and three miles northeast of Orange, Orange County</p> <p>TYPE OF OPERATION: Carbon black manufacturing</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 29, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jordan Jones, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Russell Webb, Plant Manager, Evonik Degussa Corporation, 1513 Echo Avenue, Orange, Texas 77632 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: August 14, 2009</p> <p>Date of NOE Relating to this Case: October 23, 2009 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total residual chlorine, coliform, and zinc [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000814000, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$17,380</p> <p>Total Deferred: \$3,476 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$13,904</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented a plan to segregate plant area storm water from the other plant wastewater streams. The plan was presented to the TCEQ and an amendment to the plant TPDES permit was approved on May 4, 2009. The storm water segregation project was completed on August 28, 2009.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0000814000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0000814000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-Oct-2009		
	PCW	27-Oct-2009	Screening	27-Oct-2009
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Evonik Degussa Corporation
Reg. Ent. Ref. No.	RN100209386
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38603	No. of Violations	2
Docket No.	2009-1747-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jordan Jones
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$5,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 172.0% Enhancement Subtotals 2, 3, & 7 **\$9,460**

Notes: An enhancement is recommended because the Respondent has 17 self reported months of effluent violations, two NOV's with same or similar violations, six NOV's for dissimilar violations, two Agreed Orders with denial language and one Findings Order within the last five years.

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

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit 50.0% Enhancement Subtotal 6 **\$2,750**

Total EB Amounts \$24,534
 Approx. Cost of Compliance \$245,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$17,710**

OTHER FACTORS AS JUSTICE MAY REQUIRE -1.9% Adjustment **-\$330**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction to prevent double-enhancement of the penalty amount for same violations that were self-reported.

Final Penalty Amount **\$17,380**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$17,380**

DEFERRAL 20.0% Reduction Adjustment **-\$3,476**

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 **\$13,904**

Screening Date 27-Oct-2009

Docket No. 2009-1747-IWD-E

PCW

Respondent Evonik Degussa Corporation

Policy Revision 2 (September 2002)

Case ID No. 38603

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100209386

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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)	19	95%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 172%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended because the Respondent has 17 self reported months of effluent violations, two NOVs with same or similar violations, six NOVs for dissimilar violations, two Agreed Orders with denial language and one Findings Order within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 172%

Screening Date 27-Oct-2009

Docket No. 2009-1747-IWD-E

PCW

Respondent Evonik Degussa Corporation

Policy Revision 2 (September 2002)

Case ID No. 38603

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100209386

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000814000, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permit effluent limits, as documented in a record review conducted on August 14, 2009. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 242

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDCRP/Sellment Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24,534

Violation Final Penalty Total \$9,480

This violation Final Assessed Penalty (adjusted for limits) \$9,480

Economic Benefit Worksheet

Respondent Evonik Degussa Corporation
Case ID No. 38603
Reg. Ent. Reference No. RN100209386
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$245,000	30-Aug-2008	31-Aug-2010	2.00	\$24,534	n/a	\$24,534

Notes for DELAYED costs

Actual cost to modify the wastewater collection and pond system to segregate plant area storm water from the other plant wastewater streams. Date Required is the initial month of noncompliance. Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$245,000

TOTAL

\$24,534

Screening Date 27-Oct-2009

Docket No. 2009-1747-IWD-E

PCW

Respondent Evonik Degussa Corporation

Policy Revision 2 (September 2002)

Case ID No. 38603

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100209386

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0000814000, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permit effluent limits, as documented in a record review conducted on August 14, 2009. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 30

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended for the month of August 2008.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRPP/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 \$0

Violation Final Penalty Total \$7,900

This violation Final Assessed Penalty (adjusted for limits) \$7,900

Economic Benefit Worksheet

Respondent Evonik Degussa Corporation
Case ID No. 38603
Reg. Ent. Reference No. RN100209386
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit on violation No. 1

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

\$0

TOTAL

\$0

Effluent Limit Violation Table

Respondent	Evonik Degussa Corporation	
ID Number(s)	TPDES Permit No. WQ0000814000, Case No. 38603	
Docket Number	2009-1747-IWD-E	
Ent. Coordinator	Jordan Jones	
Corresponds to Violation Number:		1

EFFLUENT PARAMETER

Permit Limit

	Total Residual Chlorine Daily Max. Conc.	Coliform Daily Avg. Conc.	Coliform Daily Max. Conc.	Zinc Daily Average Conc.	Zinc Daily Max. Conc.				
Month/Year	0.50 mg/L	200 CFU/100mL	400 CFU/100mL	0.24 mg/L	0.50 mg/L				
August 31, 2008	c	297	5200	c	c				
October 31, 2008	c	c	c	0.269	c				
November 30, 2008	0.71	481	481	c	c				
March 31, 2009	0.54	c	c	0.275	0.649				
April 30, 2009	c	c	c	0.774	1.641				
	mg/L = milligrams per liter		c = compliant						
	avg. = average		max. = maximum						
	conc. = concentration		CFU = colony forming units						
	mL = milliliters								

Compliance History Report

Customer/Respondent/Owner-Operator: CN600757579 Evonik Degussa Corporation Classification: AVERAGE Rating: 2.98
 Regulated Entity: RN100209386 DEGUSSA ENGINEERED CARBONS Classification: AVERAGE Site Rating: 5.96
 ORANGE CARBON BLACK PLANT

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	OC0020R
	AIR OPERATING PERMITS	PERMIT	1680
	WASTEWATER	PERMIT	WQ0000814000
	WASTEWATER	PERMIT	TPDES0007544
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1810131
	AIR NEW SOURCE PERMITS	PERMIT	10911
	AIR NEW SOURCE PERMITS	PERMIT	9403B
	AIR NEW SOURCE PERMITS	PERMIT	41203
	AIR NEW SOURCE PERMITS	PERMIT	49571
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	OC0020R
	AIR NEW SOURCE PERMITS	REGISTRATION	55014
	AIR NEW SOURCE PERMITS	AFS NUM	483610C008
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX627M1
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX627
	AIR NEW SOURCE PERMITS	REGISTRATION	86133
	AIR NEW SOURCE PERMITS	EPA ID	P627M2
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	OC0020R

Location: Adjacent to Farm-to-Market Road 736, approximately two miles east of the intersection of State Highway 87 and Farm-to-Market Road 3247, and three miles northeast of Orange, in Orange County, Texas

TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: October 26, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 26, 2004 to October 26, 2009

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

Name: Jordan Jones Phone: 512-239-2569

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? Yes
3. If Yes, who is the current owner/operator? Evonik Degussa Corporation
4. If Yes, who was/were the prior owner(s)/operator(s) ? Degussa Corporation
5. When did the change(s) in owner or operator occur? September 18, 2007
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.

Effective Date: 12/20/2004

ADMINORDER 2004-0729-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
 5C THC Chapter 382, SubChapter A 382.085(a)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to prevent the discharge of one or more air contaminants or combination thereof in such a concentration and duration as may tend to be injurious or affect human health or interfere with the normal use and enjoyment of property.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(4)
 30 TAC Chapter 101, SubChapter F 101.201(b)(8)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to properly create a final record of a non-reportable emissions event at the No. 5 Pneumatic Unit which began on March 4, 2004, at 11:25 a.m. and ended 5 minutes later.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.222
 5C THC Chapter 382, SubChapter A 382.085(a)

Rqmt Prov: 9403B/PSD-TX-627M2 PERMIT

Description: Failure to maintain an emission rate below the allowable emission limits.

Effective Date: 01/08/2005

ADM:ORDER 2003-1200-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failure to maintain an emission rate below the allowable emission limits.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 205, SubChapter A 205.6

Description: Failure to pay Fiscal Year 2003 General Permits Stormwater fees and late fees for Financial Account No. 20001114.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 335, SubChapter J 335.323

Description: Failure to pay Non-Hazardous Waste Generation late fees for Financial Account No. 0300074N.

Effective Date: 12/30/2005

ADM:ORDER 2005-0410-IWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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	11/18/2004	(340558)
2	11/29/2004	(382050)
3	01/04/2005	(382051)
4	01/21/2005	(382052)
5	02/16/2005	(350345)
6	02/23/2005	(418899)
7	03/23/2005	(382049)
8	04/26/2005	(419900)
9	05/23/2005	(418901)
10	06/21/2005	(419902)
11	06/23/2005	(380640)
12	07/19/2005	(441019)
13	08/23/2005	(441020)
14	09/01/2005	(403653)
15	09/20/2005	(441021)
16	10/19/2005	(468766)
17	11/28/2005	(468767)
18	12/21/2005	(468768)
19	01/23/2006	(468769)
20	03/21/2006	(468764)
21	03/21/2006	(468765)
22	04/20/2006	(498439)
23	05/01/2006	(460315)
24	05/24/2006	(498440)
25	06/02/2006	(498441)
26	06/21/2006	(467265)
27	07/14/2006	(498442)
28	07/25/2006	(486054)
29	08/15/2006	(520443)
30	09/06/2006	(520444)
31	10/02/2006	(520445)

32	11/18/2006	(575790)
33	12/01/2006	(575791)
34	01/22/2007	(575792)
35	02/22/2007	(575784)
36	03/07/2007	(542211)
37	03/21/2007	(575785)
38	04/05/2007	(575786)
39	05/11/2007	(575787)
40	06/01/2007	(575788)
41	07/02/2007	(575789)
42	08/17/2007	(607622)
43	08/22/2007	(571009)
44	09/14/2007	(607623)
45	10/12/2007	(607624)
46	10/24/2007	(597281)
47	03/07/2008	(637898)
48	05/16/2008	(616688)
49	07/10/2008	(681823)
50	07/31/2008	(685041)
51	08/20/2008	(687717)
52	11/13/2008	(702022)
53	03/10/2009	(738025)
54	03/25/2009	(736826)
55	06/09/2009	(748376)
56	08/20/2009	(743939)
57	10/23/2009	(765923)

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

Date:	11/18/2004	(340556)		
Self Report?	NO		Classification:	Minor
Citation:	M&RR 2 PERMIT			
Description:	Failure by Degussa Engineered Carbons to maintain a staff gauge to accurately read the flow rate over the 45-degree V-Notch effluent weir.			
Self Report?	NO		Classification:	Moderate
Citation:	EL&MR 1 PERMIT			
Description:	Failure by Degussa Engineered Carbons to discharge effluent compliant with permitted effluent limitations for total zinc.			
Self Report?	NO		Classification:	Moderate
Citation:	EL&MR 1 PERMIT			
Description:	Failure by Degussa Engineered Carbons to discharge effluent compliant with fecal coliform limitations.			
Self Report?	NO		Classification:	Minor
Citation:	M&RR 3c PERMIT			
Description:	Failure by Degussa Engineered Carbons to maintain records of calibration for facility pH and total chlorine residual meters.			
Self Report?	NO		Classification:	Moderate
Citation:	OpR 1 PERMIT			
Description:	Failure by Degussa Engineered Carbons to maintain units of treatment.			
Self Report?	NO		Classification:	Moderate
Citation:	OpR 1 PERMIT			
Description:	30 TAC Chapter 335, SubChapter A 335.4 Failure by Degussa Engineered Carbons to properly dispose of industrial wastes.			
Self Report?	NO		Classification:	Moderate
Citation:	M&RR 7 PERMIT			
Description:	Failure by Degussa to provide noncompliance notification in accordance with requirements prescribed by WQ Permit 0000814-000.			
Date:	11/30/2004	(382051)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2004	(382052)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2005	(419899)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			

Date:	02/28/2005	(382049)	Classification:	Moderate
Self Report?	YES			
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:	03/11/2005	(345934)	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 101, SubChapter A 101.4 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	Failure to prevent a nuisance condition.			
Date:	07/31/2005	(441020)	Classification:	Moderate
Self Report?	YES			
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:	10/31/2005	(468767)	Classification:	Moderate
Self Report?	YES			
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	(498442)	Classification:	Moderate
Self Report?	YES			
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:	07/31/2006	(520443)	Classification:	Moderate
Self Report?	YES			
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	(575790)	Classification:	Moderate
Self Report?	YES			
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:	12/31/2006	(575792)	Classification:	Moderate
Self Report?	YES			
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	(607622)	Classification:	Moderate
Self Report?	YES			
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:	08/22/2007	(571009)	CN600757579	Classification: Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 101, SubChapter A 101.20(3) 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b) O-1660 General Terms and Conditions OP O-1660 Special Condition 7A OP Permit 0403B Special Condition 15 PERMIT			
Description:	Failure to take immediate action required to correct fugitive leaks of particulate.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THC Chapter 382, SubChapter D 382.085(b) O-1660 General Terms and Conditions OP			
Description:	Failure to report the occurrence of a deviation in a semi-annual deviation report.			

Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(5)(C) 5C THC Chapter 382, SubChapter D 382.085(b) O-1680 General Terms and Conditions OP		
Description:		Failure to accurately certify compliance.		
Date:	09/30/2007	(607624)		
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:	04/28/2008	(641823)		
Self Report?	NO		Classification:	Moderate
Citation:		30 TAC Chapter 101, SubChapter A 101.4 5C THSC Chapter 382 382.085(b)		
Description:		Failure to prevent nuisance conditions.		
Date:	05/16/2008	(616688)		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 101, SubChapter F 101.201(b)(2) 30 TAC Chapter 101, SubChapter F 101.201(b)(2)(D) 30 TAC Chapter 101, SubChapter F 101.201(b)(2)(G) 30 TAC Chapter 101, SubChapter F 101.201(b)(2)(I) 30 TAC Chapter 101, SubChapter F 101.201(b)(2)(K) 30 TAC Chapter 118, SubChapter B 118.115(b) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) 9403B, General Condition 10 PERMIT O-01660, General Terms and Conditions OP		
Description:		Failure to properly record non-reportable emissions events.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 118, SubChapter B 118.115(b) 30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) 9403B, General Condition 10 PERMIT O-01660, General Terms and Conditions OP		
Description:		Failure to properly report all deviations in Semiannual Deviation Reports (SDRs).		
Date:	08/31/2008		CN600757579	
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:	10/31/2008		CN600757579	
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:	11/13/2008	(702022)	CN600757579	
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)		
Description:		Failure to inspect the interior of the pressure tank every five years.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:		Failure to inspect the ground storage tank annually.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)		
Description:		Failure to lock the hatch on the ground storage tank.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.43(c)(4)		
Description:		Failure to have an appropriate liquid level indicator on the ground storage tank.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.42(e)(2)		
Description:		Failure to disinfect water prior to storage.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:		Failure to have a monitoring plan.		
Date:	11/30/2008		CN600757579	

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:	01/30/2009	(708187)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.4 6C THSC Chapter 382 382.085(b)		
Description:	Failure to prevent nuisance conditions caused by carbon black.		
Date:	03/31/2009	CN600757579	
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:	04/30/2009	CN600757579	
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:	06/09/2009	(748376)	
Self Report?	NO	Classification:	Moderate
Citation:	PC, No. 2(g), Pg. 7 PERMIT		
Description:	Failure to contain storm water commingled with carbon black resulting in an unauthorized discharge.		
Self Report?	NO	Classification:	Moderate
Citation:	EL&MR, No. 1, Pg. 2 PERMIT		
Description:	Failure to discharge effluent in compliance with permitted effluent limitations.		

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

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EVONIK DEGUSSA CORPORATION
RN100209386

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-1747-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 Evonik Degussa 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 a carbon black manufacturing facility located adjacent to Farm-to-Market Road 736, approximately two miles east of the intersection of State Highway 87 and Farm-to-Market Road 3247, and three miles northeast of Orange in Orange County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 October 28, 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 Seventeen Thousand Three Hundred Eighty Dollars (\$17,380) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirteen Thousand Nine Hundred Four Dollars (\$13,904) of the administrative penalty and Three Thousand Four Hundred Seventy-Six Dollars (\$3,476) 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 a plan to segregate plant area storm water from the other plant wastewater streams. The plan was presented to the TCEQ and an amendment to the plant TPDES permit was approved on May 4, 2009. The storm water segregation project was completed on August 28, 2009.
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 failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000814000, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 14, 2009 and shown in the table below:

	Total Residual Chlorine Daily Max Conc.	Coliform Daily Avg. Conc.	Coliform Daily Max. Conc.	Zinc Daily Average Conc.	Zinc Daily Max. Conc.
<i>Month/Year</i>	0.50 mg/L	200 CFU/100mL	400 CFU/100mL	0.24 mg/L	0.50 mg/L
August 31, 2008	c	297	5200	c	c
October 31, 2008	c	c	c	0.269	c
November 30, 2008	0.71	481	481	c	c
March 31, 2009	0.54	c	c	0.275	0.649
April 30, 2009	c	c	c	0.774	1.641
	mg/L = milligrams per liter		c = compliant		
	avg. = average		max. = maximum		
	conc. = concentration		CFU = colony forming units		
	mL = milliliters				

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: Evonik Degussa Corporation, Docket No. 2009-1747-IWD-E" to:

Financial Administration Division, Revenues Section
 Attention: Cashier's Office, MC 214
 Texas Commission on Environmental Quality
 P.O. Box 13088
 Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0000814000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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

John Swain

For the Executive Director

3/16/2010

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.

Russell Webb

Signature

1/8/10

Date

Russell Webb

Name (Printed or typed)
Authorized Representative of
Evonik Degussa Corporation

Plant Manager

Title

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