

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-1726-IWD-E **TCEQ ID:** RN101919280 **CASE NO.:** 38561
RESPONDENT NAME: Igloo Products Corp.

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: Katy Plant, 30603 Katy-Brookshire Road adjacent to and south of United States Highway 90, approximately 750 feet west of the Willow Fork of Buffalo Bayou, Waller County</p> <p>TYPE OF OPERATION: Plastic container manufacturing plant with an associated 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 April 19, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Lawrence Rominger, Vice President, Igloo Products Corp., 30603 Katy Brookshire Road, Katy, Texas 77494; Mr. Michael J. Vitek, Chief Financial Officer, 30603 Katy Brookshire Road, Katy, Texas 77494 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 Records Review Relating to this Case: August 11, 2009</p> <p>Date of NOE Relating to this Case: October 9, 2009</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits. Specifically, the Respondent submitted self-reported data indicating their daily average concentration of total suspended solids level for the monitoring period ending in February 2009 was 28.75 milligrams per liter ("mg/L") and for the monitoring period ending in March 2009 was 32.25 mg/L, which exceeded the permitted effluent limit of 20 mg/L [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002229000, Effluent Limitations and Monitoring Requirements No. 1, Outfall 101].</p> <p>2) Failure to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to timely submit the annual Discharge Monitoring Report ("DMR") for total chromium and total zinc at outfalls 401 and 201 for the monitoring period ending August 31, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002229000, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failure to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the DMR parameter data for dissolved oxygen for the monitoring period</p>	<p>Total Assessed: \$3,619</p> <p>Total Deferred: \$723 <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: \$2,896</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>The Executive Director recognizes that, by January 16, 2009, the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted the annual DMR for total chromium and total zinc at outfalls 401 and 201 for the monitoring period ending August 31, 2008; and</p> <p>b. Submitted revised and completed DMRs for the monitoring periods ending May 31, 2008, June 30, 2008, July 31, 2008, August 31, 2008, and March 31, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0002229000, 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 limits.</p>

ending March 31, 2009 and for general fecal coliform for the monitoring periods ending May 31, 2008, June 30, 2008, July 31, 2008, and August 31, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002229000, Monitoring and Reporting Requirements No. 1].		
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Additional ID No(s): TPDES Permit No. WQ00022290000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Oct-2009	Screening	16-Oct-2009	EPA Due	
	PCW	23-Oct-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Igloo Products Corp.		
Reg. Ent. Ref. No.	RN101919280		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38561	No. of Violations	3
Docket No.	2009-1726-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		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* **\$1,600**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 134.0% Enhancement *Subtotals 2, 3, & 7* **\$2,144**

Notes The penalty is enhanced due to 22 self-reported monthly effluent violations, two NOVs with unrelated violations and one final agreed order containing a denial of liability.

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* **\$125**

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

Total EB Amounts	\$507	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,350	

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$3,619**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,619**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$3,619**

DEFERRAL 20.0% Reduction *Adjustment* **-\$723**

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 **\$2,896**

Screening Date 16-Oct-2009

Docket No. 2009-1726-IWD-E

PCW

Respondent Igloo Products Corp.

Policy Revision 2 (September 2002)

Case ID No. 38561

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101919280

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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)	22	110%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 134%

>> 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

The penalty is enhanced due to 22 self-reported monthly effluent violations, two NOVs with unrelated violations and one final agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 134%

Screening Date 18-Oct-2009

Docket No.: 2009-1726-IWD-E

PCW

Respondent Igloo Products Corp.

Policy Revision 2 (September 2002)

Case ID No. 38661

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101919280

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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. WQ0002229000, Effluent Limitations and Monitoring Requirements No. 1, Outfall 101

Violation Description

Failed to comply with permit effluent limits, as documented during a record review conducted on August 11, 2009. Specifically, the Respondent submitted self-reported data indicating their daily average concentration of total suspended solids level for the monitoring period ending in February 2009 was 28.75 milligrams per liter ("mg/L") and for the monitoring period ending in March 2009 was 32.25 mg/L, which exceeded the permitted effluent limit of 20 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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 1

Number of violation days 59

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDFRP/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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$497

Violation Final Penalty Total \$2,340

This violation Final Assessed Penalty (adjusted for limits) \$2,340

Economic Benefit Worksheet

Respondent Igloo Products Corp.
Case ID No. 38561
Reg. Ent. Reference No. RN101919280
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	\$5,000	28-Feb-2009	31-Jul-2010	1.42	\$24	\$473	\$497
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. 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

\$5,000

TOTAL

\$497

Screening Date: 16-Oct-2009

Docket No.: 2009-1726-IWD-E

PCW

Respondent: Igloo Products Corp.

Policy Revision 2 (September 2002)

Case ID No.: 38561

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101919280

Media [Statute]: Water Quality

Enf. Coordinator: Steve Villatoro

Violation Number: 2

Rule Cite(s): 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0002229000, Monitoring and Reporting Requirements No. 1

Violation Description: Failed to timely submit monitoring results at the intervals specified in the permit, as documented in a record review on August 11, 2009. Specifically, the Respondent failed to timely submit the annual discharge monitoring report ("DMR") for total chromium and total zinc at outfalls 401 and 201 for the monitoring period ending August 31, 2008.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes

At least 70% of rule requirement was met.

Adjustment: \$9,900

\$100

Violation Events

Number of Violation Events: 1 Number of violation days: 416

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty: \$100

One single 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: \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$3

Violation Final Penalty Total: \$234

This violation Final Assessed Penalty (adjusted for limits): \$234

Economic Benefit Worksheet

Respondent: Igloo Products Corp.
Case ID No.: 38661
Reg. Ent. Reference No.: RN101919280
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 entries 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)	\$100	31-Aug-2008	16-Jan-2009	0.38	\$0	\$3	\$3
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 prepare and submit the discharge monitoring report. Date required is date the report was due. Final date is the 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

\$100

TOTAL

\$3

Screening Date: 16-Oct-2009

Docket No.: 2009-1726-IWD-E

PCW

Respondent: Igloo Products Corp.

Policy Revision 2 (September 2002)

Case ID No.: 38561

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101919280

Media [Statute]: Water Quality

Enf. Coordinator: Steve Villatoro

Violation Number: 3

Rule Cite(s):

30 Tex. Admin. Code § 306.125(17) and TPDES Permit No. WQ0002229000, Monitoring and Reporting Requirements No. 1

Violation Description:

Failed to submit monitoring results at the intervals specified in the permit, as documented in a record review on August 11, 2009. Specifically, the Respondent failed to submit the DMR parameter data for dissolved oxygen for the monitoring period ending March 31, 2009 and for general fecal coliform for the monitoring periods ending May 31, 2008, June 30, 2008, July 31, 2008, and August 31, 2008.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			X

Percent: 1%

Matrix Notes

More than 70% of permit requirement was met.

Adjustment: \$9,900

\$100

Violation Events

Number of Violation Events: 5

569 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$500

Five single events are recommended (one for each DMR with missing information)

Good Faith Efforts to Comply

25.0% Reduction

\$125

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

Notes

The Respondent achieved compliance on January 16, 2009.

Violation Subtotal: \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$7

Violation Final Penalty Total: \$1,045

This violation Final Assessed Penalty (adjusted for limits): \$1,045

Economic Benefit Worksheet

Respondent: Igloo Products Corp.
Case ID No.: 38561
Reg. Ent. Reference No.: RN101919280
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

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	\$250	20-Jun-2008	16-Jan-2009	0.58	\$7	n/a	\$7
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 provide missing DMR parameter data. Date required is date the first complete DMR was due. Final date is the 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

\$250

TOTAL

\$7

Compliance History Report

Customer/Respondent/Owner-Operator: CN601048085 Igloo Products Corp. Classification: AVERAGE Rating: 7.98
Regulated Entity: RN101919280 KATY PLANT Classification: AVERAGE Site Rating: 1.90

ID Number(s):
AIR NEW SOURCE PERMITS PERMIT 7303
AIR NEW SOURCE PERMITS ACCOUNT NUMBER WB0012T
AIR NEW SOURCE PERMITS AFS NUM 4847300007
WASTEWATER PERMIT WQ0002229000
WASTEWATER PERMIT TPDES0079057
WASTEWATER PERMIT TX0079057
AIR EMISSIONS INVENTORY ACCOUNT NUMBER WB0012T

Location: 30603 Katy-Brookshire Road adjacent to and south of United States Highway 90, approximately 750 feet west of the Willow Fork of Buffalo Bayou, Waller County, Texas

TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: October 21, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 16, 2004 to October 16, 2009

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

Name: Steve Villatoro Phone: 512-239-4930

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.

Effective Date: 12/22/2006 ADMINORDER 2003-1357-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 the permit limit for Total Selenium daily average (mg/l) at Outfall 001A for the monitoring periods ending 03/31/2002 and 06/30/2002. These violations meet referral criteria.

- 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	10/20/2004	(360257)
2	11/19/2004	(386460)
3	12/20/2004	(386461)
4	01/18/2005	(386462)
5	02/22/2005	(424323)
6	03/21/2005	(386459)
7	04/18/2005	(424324)
8	06/17/2005	(424325)
9	08/02/2005	(445104)
10	08/25/2005	(149724)

11	09/22/2005	(445105)
12	09/22/2005	(445106)
13	10/17/2005	(476169)
14	10/18/2005	(433433)
15	11/21/2005	(476170)
16	12/19/2005	(476171)
17	01/20/2006	(476172)
18	02/16/2006	(476167)
19	03/20/2006	(476168)
20	04/14/2006	(503313)
21	05/18/2006	(503314)
22	05/26/2006	(461519)
23	06/28/2006	(503315)
24	06/29/2006	(484404)
25	07/24/2006	(585722)
26	08/28/2006	(525688)
27	08/28/2006	(525690)
28	09/14/2006	(525689)
29	10/25/2006	(550279)
30	11/22/2006	(550280)
31	01/15/2007	(550281)
32	02/20/2007	(585717)
33	03/19/2007	(585718)
34	04/19/2007	(585719)
35	04/20/2007	(542523)
36	05/22/2007	(585720)
37	06/21/2007	(585721)
38	07/23/2007	(604621)
39	08/22/2007	(604622)
40	09/21/2007	(604623)
41	10/24/2007	(623859)
42	11/30/2007	(623860)
43	01/03/2008	(675026)
44	01/28/2008	(675027)
45	02/21/2008	(675024)
46	03/24/2008	(675025)
47	04/23/2008	(693374)
48	05/22/2008	(693375)
49	06/27/2008	(714622)
50	08/04/2008	(714623)
51	08/19/2008	(714624)
52	09/24/2008	(714625)
53	10/23/2008	(730575)
54	12/03/2008	(730576)
55	12/29/2008	(730577)
56	01/22/2009	(730578)
57	02/24/2009	(753794)
58	04/22/2009	(753795)
59	04/22/2009	(771179)
60	05/21/2009	(771180)
61	10/09/2009	(765503)

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

Date: 10/31/2004 (386460) CN601048085
 Self Report? YES Classification: Moderate
 n:

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: 11/30/2004 (386461) CN601048085
 Self Report? YES Classification: Moderate
 n:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: TWC Chapter 26 26.121(a)
 Failure to meet the limit for one or more permit parameter
 Date: 12/31/2004 (386462) CN601048085
 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 (424323) CN601048085
 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 (386459) CN601048085
 Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2005 (424324) CN601048085
 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: 05/31/2005 (424325) CN601048085
 Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter
 Date: 08/23/2005 (149724) CN601048085
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to prevent short circuiting of the clarifier weirs.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)

Description: Failure to provide a current backflow preventer certification.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to install a staff gauge.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.1(a)(1)

Description: Failure to calibrate flow meter annually.
 Date: 02/28/2006 (476168) CN601048085
 Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2006 (503313) CN601048085
 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: 04/30/2006 (503314) CN601048085
 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:	05/26/2006	(461519)	CN601048085
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to maintain the chlorine scales in operational condition.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to prevent the accumulation of sludge in the chlorine contact chamber.		
Date:	05/31/2006	(503315)	CN601048085
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006	(525689)	CN601048085
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	(550280)	CN601048085
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:	04/30/2007	(585720)	CN601048085
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	(604622)	CN601048085
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	(604623)	CN601048085
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:	12/31/2007	(675027)	CN601048085
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:	01/31/2008	(675024)	CN601048085
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:	02/29/2008	(675025)	CN601048085
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:	03/31/2008	(693374)	CN601048085
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: 02/28/2009 (753795) CN601048085
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: 03/31/2009 (771179) CN601048085
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
IGLOO PRODUCTS CORP.
RN101919280**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1726-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 Igloo Products Corp. ("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 plastic container manufacturing plant with an associated wastewater treatment facility located at 30603 Katy-Brookshire Road adjacent to and south of United States Highway 90, approximately 750 feet west of the Willow Fork of Buffalo Bayou, Waller 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 October 14, 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 Three Thousand Six Hundred Nineteen Dollars (\$3,619) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Ninety-Six Dollars (\$2,896) of the administrative penalty and Seven Hundred Twenty-Three Dollars (\$723) 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, by January 16, 2009, the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted the annual discharge monitoring report ("DMR") for total chromium and total zinc at outfalls 401 and 201 for the monitoring period ending August 31, 2008; and
 - b. Submitted revised and completed DMRs for the monitoring periods ending May 31, 2008, June 30, 2008, July 31, 2008, August 31, 2008, and March 31, 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:

1. 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. WQ0002229000, Effluent Limitations and Monitoring Requirements No. 1, Outfall 101, as documented during a record review conducted on August 11, 2009. Specifically, the Respondent submitted self-reported data indicating their daily average concentration of total suspended solids level for the monitoring period ending in February 2009 was 28.75 milligrams

per liter ("mg/L") and for the monitoring period ending in March 2009 was 32.25 mg/L, which exceeded the permitted effluent limit of 20 mg/L.

2. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002229000, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on August 11, 2009. Specifically, the Respondent failed to timely submit the annual DMR for total chromium and total zinc at outfalls 401 and 201 for the monitoring period ending August 31, 2008.
3. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002229000, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on August 11, 2009. Specifically, the Respondent failed to submit the DMR parameter data for dissolved oxygen for the monitoring period ending March 31, 2009 and for general fecal coliform for the monitoring periods ending May 31, 2008, June 30, 2008, July 31, 2008, and August 31, 2008,

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: Igloo Products Corp., Docket No. 2009-1726-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limits of TPDES Permit No. WQ0002229000, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

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

[Signature]
For the Executive Director

3/26/2010
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

2-4-10
Date

Michael J. Vitek
Name (Printed or typed)
Authorized Representative of
Igloo Products Corp.

CFO
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.