

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1880-AIR-E **TCEQ ID:** RN105482723 **CASE NO.:** 38728

RESPONDENT NAME: Texas Department of Public Safety

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 checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Texas Department of Public Safety Edinburg CEC2012T, on the eastern side of the northernmost end of North Jackson Road in the Ramseyer Gardens Residential Subdivision on Lots 72 and 73, Edinburg, Hidalgo County</p> <p>TYPE OF OPERATION: Air curtain incinerator</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 June 7, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. D. Pat Johnson, Deputy Assistant Director, Crime Laboratory Service, Texas Department of Public Safety, P.O. Box 4143 Crime Lab, Austin, Texas 78765 Mr. Steve Robertson, Assistant Lab Director, Texas Department of Public Safety, P.O. Box 4143 Crime Lab, Austin, Texas 78765 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 Investigation Relating to this Case: September 30, 2009</p> <p>Date of NOV Relating to this Case: October 29, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to submit an annual compliance certification ("ACC") report. Specifically, the Respondent did not submit the ACC for the June 30, 2008 to June 29, 2009 reporting period [30 TEX. ADMIN. CODE §§ 122.146(2) and 122.143(4), Federal Operating Permit ("FOP") O-3032/General Operating Permit ("GOP") No. 518, Terms and Conditions (b)(3)(D)(ii), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit a semi-annual deviation report for the June 30, 2008 through December 29, 2008 reporting period. Specifically, the Respondent did not submit the semi-annual deviation report for the December 30, 2008 through June 29, 2009 reporting period until September 11, 2009 and failed to correctly enter the Area Name, Report Period Start Date, Report Period End Date, Term and Condition Number, Regulatory Requirement Citation, SOP or GOP Index Number, Deviation Item Number, Deviation Period Start, Deviation Period End, Number of Deviations, and Total Deviations [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A) and (C), FOP O-3032/GOP No. 518, Terms and Conditions (b)(3)(C)(ii)(a) and (c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to submit a semi-annual</p>	<p>Total Assessed: \$9,875</p> <p>Total Deferred: \$1,975 <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: \$7,900</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 Site:</p> <p>a) On September 11, 2009, submitted the semi-annual deviation report for the June 30, 2008 through December 29, 2008 reporting period;</p> <p>b) On January 15, 2010, submitted the ACC for the June 30, 2008 through June 29, 2009 reporting period;</p> <p>c) On January 15, 2010, submitted a complete semi-annual deviation report for the December 30, 2008 through June 29, 2009 reporting period; and</p> <p>d) By February 2, 2010, initiated improvements to operating procedures by training and certifying an additional staff member as a visible emissions evaluator.</p>

<p>deviation report for the June 30, 2008 through December 29, 2008 reporting period when violations were known to have occurred [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), FOP O-3032/GOP No. 518, Terms and Conditions (b)(3)(C)(ii)(b), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to prevent visible emissions. Specifically, the Respondent failed to prevent visible emissions during testing on September 30, 2009 when the average six minute opacity reached as much as 44.58% and the applicable limit is 30% [30 TEX. ADMIN. CODE §§ 111.111(a)(8)(A) and 122.143(4), FOP O-3032/GOP No. 518, Terms and Conditions (b)(10)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): Air Acct. No. HNA008H



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-Nov-2009			
	PCW	18-Nov-2009	Screening	17-Nov-2009	EPA Due 30-Jul-2010

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Department of Public Safety
Reg. Ent. Ref. No.	RN105482723
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38728	No. of Violations	4
Docket No.	2009-1880-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Kirk Schoppe
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 17-Nov-2009

Docket No. 2009-1880-AIR-E

PCW

Respondent Texas Department of Public Safety

Policy Revision 2 (September 2002)

Case ID No. 38728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105482723

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty was enhanced due to one similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 17-Nov-2009

Docket No. 2009-1880-AIR-E

PCW

Respondent Texas Department of Public Safety

Policy Revision 2 (September 2002)

Case ID No. 38728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105482723

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 122.146(2) and 122.143(4), Federal Operating Permit ("FOP") O-3032/General Operating Permit ("GOP") No. 518, Terms and Conditions (b)(3)(D)(ii), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit an annual compliance certification ("ACC") report. Specifically, the Respondent did not submit the ACC for the June 30, 2008 to June 29, 2009 reporting period, as documented during an investigation conducted on September 30, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			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 112

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

Violation Base Penalty \$2,500

One single event is recommended based on the annual compliance certification not being submitted.

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 \$6

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Texas Department of Public Safety
Case ID No. 38728
Reg. Ent. Reference No. RN105482723
Media Air
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	29-Jul-2009	15-Jan-2010	0.47	\$8	n/a	\$6
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 preparation and submittal of an annual compliance certification. Date required is the date the report should have been submitted. Final date is the 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

\$250

TOTAL

\$6

Screening Date 17-Nov-2009

Docket No. 2009-1880-AIR-E

PCW

Respondent Texas Department of Public Safety

Policy Revision 2 (September 2002)

Case ID No. 38728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105482723

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A) and (C), FOP O-3032/GOP No. 518, Terms and Conditions (b)(3)(C)(ii)(a) and (c), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to timely submit a complete semi-annual deviation report for the December 30, 2008 through June 29, 2009 reporting period, as documented during an investigation conducted on September 30, 2009. Specifically, the Respondent did not submit the semi-annual deviation report for the December 30, 2008 through June 29, 2009 reporting period until September 11, 2009 and failed to correctly enter the Area Name, Report Period Start Date, Report Period End Date, Term and Condition Number, Regulatory Requirement Citation, SOP or GOP Index Number, Deviation Item Number, Deviation Period Start, Deviation Period End, Number of Deviations, and Total Deviations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
	x			25%
100% of the rule requirement was not met.				

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events	1	112	Number of violation days
daily			
weekly			
monthly			
quarterly			
semiannual			
annual			
single event	x		

Violation Base Penalty \$2,500

One single event is recommended based on the untimely and incomplete submission of the semi-annual deviation report.

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Texas Department of Public Safety
Case ID No. 38728
Reg. Ent. Reference No. RN105482723
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	29-Jul-2009	15-Jan-2010	0.47	\$8	n/a	\$6
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 preparation and submittal of a semi-annual deviation report. The date required is the date the report should have been submitted. The final date is the 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	\$250	TOTAL	\$6
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Screening Date 17-Nov-2009

Docket No. 2009-1880-AIR-E

PCW

Respondent Texas Department of Public Safety

Policy Revision 2 (September 2002)

Case ID No. 38728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105482723

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(B), FOP O-3032/GOP No. 518, Terms and Conditions (b)(3)(C)(ii)(b), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit a semi-annual deviation report for the June 30, 2008 through December 29, 2008 reporting period when violations were known to have occurred, as documented during an investigation conducted on September 30, 2009.

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

25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment

\$7,500

\$2,500

Violation Events

Number of Violation Events

1

293

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty

\$2,500

One single event is recommended based on the failure to submit a semi-annual deviation report.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent returned to compliance on September 11, 2009, and the NOE is dated October 29, 2009.

Violation Subtotal

\$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$2

Violation Final Penalty Total

\$2,000

This violation Final Assessed Penalty (adjusted for limits)

\$2,000

Economic Benefit Worksheet

Respondent Texas Department of Public Safety
Case ID No. 38728
Reg. Ent. Reference No. RN105482723
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	29-Jul-2009	11-Sep-2009	0.12	\$2	n/a	\$2
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 preparation and submittal of a semi-annual deviation report. The date required is the date a report should have been submitted. The final date is the 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 \$250

TOTAL \$2

Screening Date 17-Nov-2009

Docket No. 2009-1880-AIR-E

PCW

Respondent Texas Department of Public Safety

Policy Revision 2 (September 2002)

Case ID No. 38728

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105482723

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 111.111(a)(8)(A) and 122.143(4), FOP O-3032/GOP No. 518, Terms and Conditions (b)(10)(A), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent visible emissions. Specifically, the Respondent failed to prevent visible emissions during testing on September 30, 2009 when the average six minute opacity reached as much as 44.58% and the applicable limit is 30%, as documented during an investigation conducted on September 30, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
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.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 49

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

Violation Base Penalty \$2,500

One single event is recommended based on the visible emissions event that occurred on September 30, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	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 \$17

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Texas Department of Public Safety
Case ID No. 38728
Reg. Ent. Reference No. RN105482723
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,000	30-Sep-2009	2-Feb-2010	0.34	\$17	n/a	\$17
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 improve the oversight and/or procedures designed to prevent a reoccurrence of the visible emissions that occurred on September 30, 2009. The Date Required is the date of the visible emissions, and the Final Date is the 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

\$1,000

TOTAL

\$17

Compliance History Report

Customer/Respondent/Owner-Operator: CN600610976 Texas Department of Public Safety Classification: AVERAGE Rating: 3.32
Regulated Entity: RN105482723 TEXAS DEPARTMENT OF PUBLIC SAFETY EDINBURG CEC2012T Classification: AVERAGE Site Rating: 5.00

ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 84448
AIR NEW SOURCE PERMITS AFS NUM 4821500658
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HNA008H
AIR OPERATING PERMITS PERMIT 3032
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HNA008H

Location: SITE IS LOCATED IN THE RAMSEYER GARDENS
RESIDENTIAL SUBDIVISION ON LOTS 72 AND 73 ON THE
EASTERN SIDE OF THE NORTHERNMOST END OF NORTH
JACKSON RD

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: November 10, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 10, 2004 to November 10, 2009

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

Name: Kirk Schoppe Phone: 239 - 0489

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of Investigations. (CCEDS Inv. Track. No.)
1 08/17/2009 (763166)
N/A 2 11/02/2009 (776411)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/14/2009 (763166) CN600610976
N/A Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)

Permit#3032 GOP#518 (b)(3)(C)(ii)(c) OP
 Description: Failure to submit the deviation report no later than 30 days after then end of each reporting period under Title 30 of Texas Administrative Code §122.145(2)(C).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 106, SubChapter V 106.496(h)(4)(A)
 30 TAC Chapter 106, SubChapter V 106.496(h)(4)(D)
 30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)
 Permit #3032 GOP #518 (b)(9)(D) OP
 Description: Failure to have the air curtain incinerator equipped with a run time meter under Title 30 of Texas Administrative Code §1064.496(h)(4)(A).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Permit #3032 GOP#518 (b)(10)(B)(i) OP

Description: Failure to comply with all terms and conditions codified in the permit and any provision terms and conditions required to be included with the permit under Title 30 of Texas Administrative Code §122.143(A).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT CCCC 60.2255
 5C THSC Chapter 382 382.085(b)
 Permit #3032 GOP#518 (b)(11)(B)(i) OP

Description: Failure to within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s) under Title 40 Code of Federal Regulations §60.8.

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
TEXAS DEPARTMENT OF PUBLIC
SAFETY
RN105482723**

§
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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1880-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Texas Department of Public Safety ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an air curtain incinerator on the eastern side of the northernmost end of North Jackson Road in the Ramseyer Gardens Residential Subdivision on Lots 72 and 73 in Edinburg, Hidalgo County, Texas (the "Site").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 3, 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 Nine Thousand Eight Hundred Seventy-Five Dollars (\$9,875) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Seven Thousand Nine Hundred Dollars (\$7,900) of the administrative penalty and One Thousand Nine Hundred Seventy-Five Dollars (\$1,975) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On September 11, 2009, submitted the semi-annual deviation report for the June 30, 2008 through December 29, 2008 reporting period;
 - b. On January 15, 2010, submitted the annual compliance certification for the June 30, 2008 through June 29, 2009 reporting period;
 - c. On January 15, 2010, submitted a complete semi-annual deviation report for the December 30, 2008 through June 29, 2009 reporting period; and
 - d. By February 2, 2010, initiated improvements to operating procedures by training and certifying an additional staff member as a visible emissions evaluator.
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 Site, the Respondent is alleged to have:

1. Failed to submit an annual compliance certification ("ACC") report, in violation of 30 TEX. ADMIN. CODE §§ 122.146(2) and 122.143(4), Federal Operating Permit ("FOP") O-3032/General Operating Permit ("GOP") No. 518, Terms and Conditions (b)(3)(D)(ii), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 30, 2009. Specifically, the Respondent did not submit the ACC for the June 30, 2008 to June 29, 2009 reporting period.
2. Failed to timely submit a complete semi-annual deviation report for the December 30, 2008 through June 29, 2009 reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A) and (C), FOP O-3032/GOP No. 518, Terms and Conditions (b)(3)(C)(ii)(a) and (c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 30, 2009. Specifically, the Respondent did not submit the semi-annual deviation report for the December 30, 2008 through June 29, 2009 reporting period until September 11, 2009 and failed to correctly enter the Area Name, Report Period Start Date, Report Period End Date, Term and Condition Number, Regulatory Requirement Citation, SOP or GOP Index Number, Deviation Item Number, Deviation Period Start, Deviation Period End, Number of Deviations, and Total Deviations.
3. Failed to submit a semi-annual deviation report for the June 30, 2008 through December 29, 2008 reporting period when violations were known to have occurred, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), FOP O-3032/GOP No. 518, Terms and Conditions (b)(3)(C)(ii)(b), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 30, 2009.
4. Failed to prevent visible emissions, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(8)(A) and 122.143(4), FOP O-3032/GOP No. 518, Terms and Conditions (b)(10)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 30, 2009. Specifically, the Respondent failed to prevent visible emissions during testing on September 30, 2009 when the average six minute opacity reached as much as 44.58% and the applicable limit is 30%.

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: Texas Department of Public Safety, Docket No. 2009-1880-AIR-E" to:

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

2. 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 Site operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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

5/7/2010
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

3/29/10
Date

D. PAT JOHNSON

Name (Printed or typed)
Authorized Representative of the
Texas Department of Public Safety

Deputy Assistant Director
Crime Laboratory Service

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.

