

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0548-IHW-E RN100215458 CASE NO. 39464
RESPONDENT NAME: 2300 SUGAR SWEET REALTY, LLC

ORDER TYPE:		
<input type="checkbox"/> AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 checked="" type="checkbox"/> INDUSTRIAL 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

SITE WHERE VIOLATION(S) OCCURRED: 2300 East Sugar Sweet Avenue, Weslaco, Hidalgo County

TYPE OF OPERATION: inactive window blind manufacturing facility

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action.. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired December 6, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Jeffrey J. Huhn, Litigation Division, MC R-13, (210) 403-4023
 Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mike Pace, Waste Enforcement Section, MC R-4, (817) 588-5933

TCEQ Regional Contact: Jaime A. Garza, Harlingen Regional Office, MC R-R-15, (956) 430-6030

Respondent: Edward Gleason, Governing Person, 2300 Sugar Sweet Realty, LLC, 2300 E. Sugar Sweet Ave., Weslaco, TX 78599-1247

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint: N/A</p> <p>Date of Investigation: February 12, 2010</p> <p>Date of NOE: March 16, 2010</p> <p>Background Facts: The EDPRP was filed on August 24, 2010, and mailed to Respondent via first class mail and certified mail, return receipt requested. According to the return receipt "green card," Respondent received the EDPRP on August 26, 2010. Respondent failed to file an answer and failed to request a hearing.</p> <p>IHW:</p> <ol style="list-style-type: none"> Failed to manage industrial solid waste or municipal hazardous waste in a manner to prevent the discharge or imminent threat of discharge into or adjacent to waters in the state [30 TEX. ADMIN. CODE §§ 335.4(1) and 335.262(c)(1)]. Failed to comply with the one-year accumulation time limitation for storage of universal wastes [30 TEX. ADMIN. CODE §335.262(c)(1) and 40 C.F.R. § 273.35]. Failed to conduct proper hazardous waste determinations and maintain them for at least three years on solid wastes stored at the facility [30 TEX. ADMIN. CODE §335.62, 335.504 and 335.262, 40 C.F.R. § 262.11]. 	<p>Total Assessed: \$11,550</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$11,550</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed administrative penalty but will be required to do so within 30 days under the terms of this Order.</p> <p>Compliance History Classifications: <i>Person/CN</i> – Average <i>Site/RN</i> – Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, conduct hazardous waste determinations on all waste streams at the Facility; Within 60 days, remove all waste containing drums and buckets from the Facility and dispose of it at an authorized facility; Within 90 days, submit an Affected Property Assessment Report. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program (TRRP); and Within 105 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Apr-2010	Screening	7-Apr-2010	EPA Due	
	PCW	6-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	2300 Sugar Sweet Realty, LLC
Reg. Ent. Ref. No.	RN100215458
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	39464	No. of Violations	3	
Docket No.	2010-0548-IHW-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Mike Pace	
		EC's Team	Enforcement Team 6	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$550
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Notes	Enhancement for one NOV with same or similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$449	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$11,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,550
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$11,550
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,550
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$11,550
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Screening Date 7-Apr-2010

Docket No. 2010-0548-IHW-E

PCW

Respondent 2300 Sugar Sweet Realty, LLC

Policy Revision 2 (September 2002)

Case ID No. 39464

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100215458

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Pace

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

Screening Date 7-Apr-2010

Docket No. 2010-0548-IHW-E

PCW

Respondent 2300 Sugar Sweet Realty, LLC

Policy Revision 2 (September 2002)

Case ID No. 39464

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100215458

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Pace

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 335.4(1) and 335.262(c)(2)

Violation Description

Failed to manage industrial solid waste or municipal hazardous waste in a manner to prevent the discharge or imminent threat of discharge into or adjacent to waters in the state, as documented during an investigation conducted on February 12, 2010. Specifically, one of the 120 paint waste-containing 55-gallon drums stored outside in a concrete parking lot was punctured and the waste had spilled onto the floor. Also, 14 five-gallon buckets which contained ultraviolet curable coating products had been compromised due to improper storage.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	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 protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 54 Number of violation days

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 from the February 12, 2010 investigation to the April 7, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement

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 \$408

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent 2300 Sugar Sweet Realty, LLC
Case ID No. 39464
Reg. Ent. Reference No. RN100215458
Media Industrial and Hazardous Waste
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$10,000	12-Feb-2010	7-Dec-2010	0.82	\$408	n/a	\$408
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly dispose of the drums and the buckets at an authorized facility, conduct a site assessment, and implement appropriate corrective measures. The date required is the investigation date and the final date is the expected compliance date.

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

\$10,000

TOTAL

\$408

Screening Date 7-Apr-2010 **Docket No.** 2010-0548-IHW-E **PCW**
Respondent 2300 Sugar Sweet Realty, LLC *Policy Revision 2 (September 2002)*
Case ID No. 39464 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100215458
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Mike Pace

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 335.262(c)(1) and 40 Code of Federal Regulations ("CFR") § 273.35
Violation Description Failed to comply with the one-year accumulation time limitation for storage of universal wastes. Specifically, universal wastes (paint wastes), contained in 120 drums had been stored beyond the time limit .

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended from the February 12, 2010 investigation to the April 7, 2010 screening date.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 2300 Sugar Sweet Realty, LLC
Case ID No. 39464
Reg. Ent. Reference No. RN100215458
Media Industrial and Hazardous Waste
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

Economic benefit included in 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

Screening Date 7-Apr-2010 **Docket No.** 2010-0548-IHW-E **PCW**
Respondent 2300 Sugar Sweet Realty, LLC *Policy Revision 2 (September 2002)*
Case ID No. 39464 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100215458
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Mike Pace

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.504, and 335.262(d) and 40 CFR § 262.11
Violation Description Failed to conduct proper hazardous waste determinations and maintain them for at least three years on solid wastes stored at the Facility. Specifically, waste determinations were not performed on two waste streams: 120 drums of paint waste and 14 five-gallon buckets of abandoned product.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 54 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events are recommended based on documentation of the violation during the February 12, 2010 investigation.

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 \$5,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$41

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent 2300 Sugar Sweet Realty, LLC
Case ID No. 39464
Reg. Ent. Reference No. RN100215458
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,000	12-Feb-2010	7-Dec-2010	0.82	\$41	n/a	\$41
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 conduct hazardous waste determinations on two waste streams. The date required is the investigation date and the final date is the expected compliance date.

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

\$41

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603436684 2300 Sugar Sweet Realty, LLC	Classification: AVERAGE	Rating: 1.40															
Regulated Entity:	RN100215458 International Wood	Classification: AVERAGE	Site Rating: 1.40															
ID Number(s):	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">AIR OPERATING PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER</td> <td style="width: 25%;">HN0371V</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>2786</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>HN0371V</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4821500085</td> </tr> <tr> <td>AIR EMISSIONS INVENTORY</td> <td>ACCOUNT NUMBER</td> <td>HN0371V</td> </tr> </table>			AIR OPERATING PERMITS	ACCOUNT NUMBER	HN0371V	AIR OPERATING PERMITS	PERMIT	2786	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HN0371V	AIR NEW SOURCE PERMITS	AFS NUM	4821500085	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HN0371V
AIR OPERATING PERMITS	ACCOUNT NUMBER	HN0371V																
AIR OPERATING PERMITS	PERMIT	2786																
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HN0371V																
AIR NEW SOURCE PERMITS	AFS NUM	4821500085																
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HN0371V																
Location:	2300 SUGAR SWEET, WESLACO, TX, 78596																	
TCEQ Region:	REGION 15 - HARLINGEN																	
Date Compliance History Prepared:	April 05, 2010																	
Agency Decision Requiring Compliance History:	Enforcement																	
Compliance Period:	April 05, 2005 to April 05, 2010																	

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

Name: Mike Pace Phone: 817-588-5933

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?
2300 Sugar Sweet Realty, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ?
Weslaco Holding Company, LLC
5. When did the change(s) in owner or operator occur?
01/03/2008
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	04/11/2005	(377069)
2	08/18/2007	(572680)
3	01/22/2008	(599091)
4	03/19/2009	(725000)
5	03/29/2010	(791538)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/13/2009	(725000)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter H 335.262(c)(1) 40 CFR Chapter 273, SubChapter I, PT 273, SubPT C 273.35			
Description:	Failure to prevent the storage of universal waste for longer than one year from the date the universal waste was generated or received.			
Self Report?	NO		Classification:	Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure to manage or contain the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge from the Texas Commission on Environmental Quality.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter H 335.262(d)
Description: Failure to document and maintain a hazardous waste determinations for waste generated on site for at least three (3) years.

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
2300 SUGAR SWEET REALTY, LLC;
RN100215458**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-0548-IHW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is 2300 Sugar Sweet Realty, LLC ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns property with an inactive window blind manufacturing facility located at 2300 East Sugar Sweet Avenue in Weslaco, Hidalgo County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on February 12, 2010, a TCEQ Harlingen Regional Office investigator documented that Respondent:
 - a. Failed to to manage industrial solid waste or municipal hazardous waste in a manner to prevent the discharge or imminent threat of discharge into or adjacent to waters in the state. Specifically, one of the 120 paint waste-containing 55-gallon drums stored outside in a concrete parking lot was punctured and the waste had spilled onto the floor. Also, 14 five-gallon buckets which contained ultraviolet curable coating products had been compromised due to improper storage;
 - b. Failed to comply with the one-year accumulation time limitation for storage of universal wastes. Specifically, universal wastes (paint wastes), contained in 120 drums had been stored beyond the time limit; and
 - c. Failed to conduct proper hazardous waste determinations and maintain them for at least three years on solid wastes stored at the Facility. Specifically, waste determinations were not performed on two waste streams: 120 drums of paint waste and 14 five-gallon buckets of abandoned product.

4. Respondent received notice of the violations on or about March 21, 2010.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of 2300 Sugar Sweet Realty, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on August 24, 2010.
6. By letter dated August 24, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 26, 2010, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondent failed to manage industrial solid waste or municipal hazardous waste in a manner to prevent the discharge or imminent threat of discharge into or adjacent to waters in the state, in violation of 30 TEX. ADMIN. CODE §§ 335.4(1) and 335.262(c)(2).
3. As evidenced by Finding of Fact No. 3.b., Respondent failed to comply with the one-year accumulation time limitation for storage of universal wastes, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(1) and 40 CODE OF FEDERAL REGULATIONS ("C.F.R.") § 273.35.
4. As evidenced by Finding of Fact No. 3.c., Respondent failed to conduct proper hazardous waste determinations and maintain them for at least three years on solid wastes stored at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.504, and 335.262(d) and 40 C.F.R. § 262.11.
5. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code and the Texas Health and Safety Code, within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of eleven thousand five hundred fifty dollars (\$11,550.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of eleven thousand five hundred fifty dollars (\$11,550.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: 2300 Sugar Sweet Realty, LLC; Docket No. 2010-0548-IHW-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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall conduct hazardous waste determinations on all waste streams at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.62 and 40 C.F.R. § 262.11.
 - b. Within 60 days after the effective date of this Order, Respondent shall remove all waste containing drums and buckets from the Facility and dispose of it at an authorized facility.
 - c. Within 90 days after the effective date of this Order, Respondent shall submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are

necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(I)); and Institutional Controls under Subchapter F; and

- d. Within 105 days after the effective date of this Order, Respondent shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JEFFREY J. HUHN

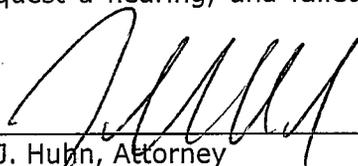
STATE OF TEXAS §
 §
COUNTY OF BEXAR §

"My name is Jeffrey J. Huhn. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of 2300 Sugar Sweet Realty, LLC" (the "EDPRP") was filed with the Office of the Chief Clerk on August 24, 2010.

The EDPRP was mailed to Respondent at its last known address on August 24, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on August 26, 2010, as evidenced by the signature on the card.

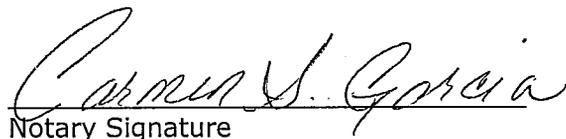
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Jeffrey J. Huhn, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jeffrey J. Huhn, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 3 day of November , A.D., 2010.



Notary Signature

