

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 4
DOCKET NO.: 2010-1564-IWD-E **TCEQ ID:** RN104306501 **CASE NO.:** 40444
RESPONDENT NAME: Pilgrim's Pride Corporation

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Pilgrim's Pride Corporation, 928 Martin Luther King Junior Boulevard, Nacogdoches, Nacogdoches County</p> <p>TYPE OF OPERATION: Poultry slaughter and packaging plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: Complaints were received on May 10, 2010 and May 21, 2010 alleging the discharge of unauthorized wastewater from the Facility. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 21, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Robert Garlington, Complex Manager, Pilgrim's Pride Corporation, 110 South Texas Street, Pittsburg, Texas 75686 Mr. Troy Penshorn, Director of Environmental Engineering, Pilgrim's Pride Corporation, 110 South Texas Street, Pittsburg, Texas 75686 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 10, 2010 and May 21, 2010</p> <p>Date of Investigation Relating to this Case: May 20, 2010</p> <p>Date of NOV/NOE Relating to this Case: September 13, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failed to conduct monthly and weekly inspections, as described in their Storm Water Pollution Prevention Plan ("SWP3"), Section 6(G), to determine the effectiveness of the good housekeeping measures, spill prevention and response measures, erosion control measures, maintenance program for structural controls, best management practices, and employee training program. Specifically, the last monthly inspection was performed on August 25, 2008 and the last weekly inspection was performed on August 18, 2008 [Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05U391, Part III, Section A.5.(g), Pollution Prevention Methods and Controls].</p> <p>2) Failed to conduct the required quarterly visual storm water outfall inspections. Specifically, the quarterly visual storm water outfall inspections have never been performed for Outfall No. 1 since the permit was issued on January 8, 2007, the last quarterly inspection was performed on June 10, 2008 for Outfall No. 2, and the last quarterly inspection was performed on February 12, 2008 for Outfall No. 3 [TPDES General Permit No. TXR05U391, Part III, Section A.5.(h), Pollution Prevention Methods and Controls].</p>	<p>Total Assessed: \$80,149</p> <p>Total Deferred: \$16,029 <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: \$64,120</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</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 the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By September 24, 2010:</p> <p>i. Removed the existing pavement where the six inch sump line penetrates the concrete paving on west side of the Facility and poured new pavement;</p> <p>ii. Removed the existing pavement where the two inch pipeline penetrates the concrete paved area on west side of Facility and a new slab was poured with the seam of the slabs sealed; and</p> <p>iii. Repaired the defective float switch on an above ground drinking water tank and instructed the operators on the proper operation of the tank.</p> <p>b. By September 28, 2010, remediated the receiving stream by applying micro-blaze to the areas along the edges of the receiving stream that had oily residue.</p> <p>c. By October 1, 2010:</p> <p>i. Developed and implemented measures to ensure that the required monthly and weekly inspections, quarterly visual storm water outfall inspections, and annual comprehensive site compliance evaluations are conducted in the prescribed timeframe;</p> <p>ii. Developed and implemented measures to ensure that the required certification language relating to signatories is included in all reports when no non-compliances are noted;</p> <p>iii. Filed a waiver to exempt the Facility from the annual monitoring requirements for hazardous metals;</p> <p>iv. Revised the SWP3 site map to include the Sector U specific requirements (cooking vents, plastic</p>

<p>3) Failed to conduct the annual comprehensive site compliance evaluation in 2008 and 2009 [TPDES General Permit No. TXR05U391, Part III, Section A.7.(b), Annual Comprehensive Site Compliance Evaluation].</p> <p>4) Failed to include the required certification language on all reports relating to signatories. Specifically, the annual comprehensive site compliance evaluation conducted on September 18, 2007 did not include the required certification language relating to signatories [TPDES General Permit No. TXR05U391, Part III, Section E.3.(g), Signatory Requirements for Reports and Certifications, and 30 TEX. ADMIN. CODE § 305.128(c)].</p> <p>5) Failed to conduct the annual hazardous metals monitoring by December 31st of each year. Specifically, no hazardous metals samples have been collected and analyzed since the permit was issued on January 8, 2007 [TPDES General Permit No. TXR05U391, Part III, Section D.1.(c), Discharges of Storm Water Runoff and (d) Reporting Requirements].</p> <p>6) Failed to indicate the location of cooking vents, plastic totes/containers storage areas, and plastic tote container washout areas in the site map [TPDES General Permit No. TXR05U391, Part V, Section U.2., Description of Potential Pollutants and Sources].</p> <p>7) Failed to notify the Executive Director and appropriate regional office orally within 24 hours and in writing within five working days of the two unauthorized discharges that occurred on May 20, 2010 [TPDES General Permit No. TXR05U391, Part III, Section E.4.(b), Noncompliance Notification, and 30 TEX. ADMIN. CODE § 305.125(9)].</p> <p>8) Failed to prevent unauthorized discharges of wastewater into or adjacent to water in the state. Specifically, during the May 20, 2010 investigation, it was noted that wastewater was pooling and standing between the west side concrete paved area and the railroad tracks near the area where the 6 inch sump line penetrates the outside concrete paved area [TEX. WATER CODE § 26.121(a)(1)].</p>		<p>totes containers storage areas, and plastic tote container washout areas); and</p> <p>v. Developed and implemented measures to ensure that the Executive Director and appropriate regional office are notified orally within 24 hours and in writing within five working days of any noncompliance which may endanger human health or safety, or the environment.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, isolate wastewater from outside surface drainage by ditches, diking, or other suitable structures; and</p> <p>b. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>
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<p>9) Failed to prevent unauthorized discharges of wastewater into or adjacent to water in the state. Specifically, during the May 20, 2010 investigation, it was noted that wastewater was also pooling and standing between the west side concrete paved area and the railroad tracks near the area where the 2 inch pipe line penetrates the outside concrete paved area [TEX. WATER CODE § 26.121(a)(1)].</p> <p>10) Failed to isolate process wastewater from outside surface drainage by ditches, diking, or other suitable structures where necessary to provide adequate environmental protection. Specifically, during the May 20, 2010 investigation, it was noted that wastewater had recently flowed over the south sump (storm water Outfall No. 2) catch grating and discharged down the concrete rip rap and into Stanley Branch. It was also noted that the paved concrete area is laid out so that rendering truck drippings, process wastewater from cleaning the totes, process wastewater from the live poultry holding area, and process wastewater from some areas inside the production buildings, is designed to run across the concrete paved areas to catch drains and into the sumps [TPDES General Permit No. TXR05U391, Part II, Section B.5., Discharges of Storm Water Mixed with Non-Storm Water, 30 TEX. ADMIN. CODE § 321.54(4), and TEX. WATER CODE § 26.121(a)(1)].</p>		
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Additional ID No(s): TPDES General Permit No. TXR05U391



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Sep-2010		
	PCW	22-Dec-2010	Screening	21-Sep-2010
			EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Pilgrim's Pride Corporation		
Reg. Ent. Ref. No.	RN104306601		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40444	No. of Violations	8
Docket No.	2010-1564-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$51,700**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25.0% Enhancement Subtotals 2, 3, & 7 **\$12,925**

Notes

Enhancement for one Agreed Order with denial and one NOV with same/similar violations.

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

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$3,920**

Economic Benefit 50.0% Enhancement* Subtotal 6 **\$19,444**

Total EB Amounts	\$19,444
Approx. Cost of Compliance	\$27,850

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$80,149**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement for the avoided cost associated with Violation Nos. 1, 2, 3, 4, and 6 is not recommended because the 50% economic benefit enhancement amount exceeds the total avoided cost amount.

Final Penalty Amount **\$80,149**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$80,149**

DEFERRAL 20.0% Reduction Adjustment **-\$16,029**

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 **\$64,120**

Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104306501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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)	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%

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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Agreed Order with denial and one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 21-Sep-2010

Docket No. 2010-1664-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104306501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05U391, Part III, Section A.5.(g) and (h), Pollution Prevention Methods and Controls

Violation Description

Failed to conduct monthly and weekly inspections, as described in their Storm Water Pollution Prevention Plan ("SWP3"), Section 6(G), to determine the effectiveness of the good housekeeping measures, spill prevention and response measures, erosion control measures, maintenance program for structural controls, best management practices, and employee training program and failed to conduct the required quarterly visual storm water outfall inspections. Specifically, the last monthly inspection was performed on August 25, 2008, the last weekly inspection was performed on August 18, 2008, the quarterly visual storm water outfall inspections have never been performed for Outfall No. 1 since the permit was issued on January 8, 2007, the last quarterly inspection was performed on June 10, 2008 for Outfall No. 2, and the last quarterly inspection was performed on February 12, 2008 for Outfall No. 3.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

Matrix Notes

Failure to conduct the quarterly periodic inspections and to conduct the required quarterly visual storm water outfall inspections could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 15 Number of violation days 1293

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Fifteen quarterly events are recommended from the date the first inspection was due, March 8, 2007 to the screening date of September 21, 2010.

Good Faith Efforts to Comply

10.0% Reduction

\$1,500

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

Notes: The Respondent achieved compliance by October 1, 2010.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16,773

Violation Final Penalty Total \$19,680

This violation Final Assessed Penalty (adjusted for limits) \$19,680

Economic Benefit Worksheet

Respondent Pilgrim's Pride Corporation
Case ID No. 40444
Reg. Ent. Reference No. RN104306501
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

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				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)	\$500	20-May-2010	1-Oct-2010	0.37	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to begin conducting the required quarterly inspections and the required quarterly visual storm water outfall inspections. Date Required is the investigation date. Final Date is the compliance date.

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)	\$13,900	8-Mar-2007	20-May-2010	4.12	\$2,864	\$13,900	\$16,764

Notes for AVOIDED costs

Estimated cost (\$100 per inspection) to conduct the required weekly inspections (91), monthly inspections (20) and to conduct the required quarterly visual storm water outfall inspections (13 for Outfall No. 1, 7 for Outfall No. 2, and 8 for Outfall No. 3). Date Required is the date the first inspection was due. Final Date is the investigation date.

Approx. Cost of Compliance

\$14,400

TOTAL

\$16,773

Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2007)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104306501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES General Permit No. TXR05U891, Part III, Section A.7.(b), Annual Comprehensive Site Compliance Evaluation

Violation Description Failed to conduct the annual comprehensive site compliance evaluation in 2008 and 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to conduct the required annual comprehensive site compliance evaluation could result in the release of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 2

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$2,000

Two single events are recommended for the annual comprehensive site compliance evaluations for years 2008 and 2009.

Good Faith Efforts to Comply

10.0% Reduction

\$200

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

Notes

The Respondent achieved compliance by October 1, 2010 for this violation.

Violation Subtotal \$1,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,105

Violation Final Penalty Total \$4,730

This violation Final Assessed Penalty (adjusted for limits) \$4,730

Economic Benefit Worksheet

Respondent: Pilgrim's Pride Corporation
Case ID No.: 40444
Reg. Ent. Reference No.: RN104308501
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
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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)	\$500	20-May-2010	1-Oct-2010	0.37	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to develop and implement measures to ensure annual comprehensive site compliance evaluations are conducted. Date Required is the investigation date. Final Date is the 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)	\$1,000	31-Dec-2008	31-Dec-2009	1.92	\$96	\$1,000	\$1,096

Notes for AVOIDED costs

Estimated cost (\$500 per evaluation) to conduct the required annual comprehensive site compliance evaluations. Date Required is the date the first evaluation was due. Final Date the date the last evaluation was due.

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,105

Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104306501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

TPDES General Permit No. TXR05U391, Part III, Section E.3.(g), Signatory Requirements for Reports and Certifications, and 30 Tex. Admin. Code § 305.128(c)

Violation Description

Failed to include the required certification language on all reports relating to signatories. Specifically, the annual comprehensive site compliance evaluation conducted on September 18, 2007 did not include the required certification language relating to signatories.

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

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes

The Respondent achieved compliance by October 1, 2010 for this violation.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$120

Violation Final Penalty Total \$2,545

This violation Final Assessed Penalty (adjusted for limits) \$2,545

Economic Benefit Worksheet

Respondent: Pilgrim's Pride Corporation
Case ID No.: 40444
Reg. Ent. Reference No.: RN104306501
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
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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				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)	\$100	20-May-2010	1-Oct-2010	0.37	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to develop and implement measures to ensure that the required certification language on all reports relating to signatories are included. Date Required is the investigation date. Final Date is the compliance date.

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)	\$100	18-Sep-2007	20-May-2010	3.59	\$18	\$100	\$118

Notes for AVOIDED costs

Estimated cost (\$100 per inspection) to include the required certification language on all reports relating to signatories. Date Required is the date of the inspection report. Final Date is the investigation date.

Approx. Cost of Compliance

\$200

TOTAL

\$120

Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No: 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN104306501

Media (Statute) Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s)

TPDES General Permit No. TXR05U391, Part III, Section D.1.(c), Discharges of Storm Water Runoff and (d) Reporting Requirements

Violation Description

Failed to conduct the annual hazardous metals monitoring by December 31st of each year. Specifically, no hazardous metals samples have been collected and analyzed since the permit was issued on January 8, 2007.

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

Failure to conduct the annual hazardous metals monitoring by December 31st of each year could result in the release of significant amounts of 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 3 Number of violation days 3

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three annual events are recommended for years 2007, 2008 and 2009.

Good Faith Efforts to Comply

10.0% Reduction

\$750

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

Notes

The Respondent achieved compliance by October 1, 2010 for this violation.

Violation Subtotal \$8,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,037

Violation Final Penalty Total \$11,055

This violation Final Assessed Penalty (adjusted for limits) \$11,055

Economic Benefit Worksheet

Respondent: Pilgrim's Pride Corporation
Case ID No.: 40444
Reg. Ent. Reference No.: RN104306601
Media: Water Quality
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$300	20-May-2010	1-Oct-2010	0.37	\$6	n/a	\$6

Notes for DELAYED costs: Estimated cost to file a waiver to exempt the Facility from the annual hazardous metals monitoring. Date Required is the investigation date. Final Date is the 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)	\$900	31-Dec-2007	31-Dec-2009	2.92	\$131	\$900	\$1,031

Notes for AVOIDED costs: Estimated cost (\$300 per monitoring) to conduct the annual hazardous metals monitoring by December 31th of each year. Date Required is the date the first monitoring was due. Final Date is the date the last monitoring was due.

Approx. Cost of Compliance	\$1,200	TOTAL	\$1,037
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Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104306501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 5

Rule Cite(s)

TPDES General Permit No. TXR05U391, Part V, Section U.2., Description of Potential Pollutants and Sources

Violation Description

Failed to indicate the location of cooking vents, plastic totes/containers storage areas, and plastic tote container washout areas in the site map.

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 the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

Number of violation days 1

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes

The Respondent achieved compliance by October 1, 2010 for this violation.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$2,545

This violation Final Assessed Penalty (adjusted for limits) \$2,545

Economic Benefit Worksheet

Respondent: Pilgrim's Pride Corporation
Case ID No.: 40444
Reg. Ent. Reference No.: RN104306501
Media: Water Quality
Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,000	20-May-2010	1-Oct-2010	0.37	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost to include Sector U specific requirements on the SWP3 site map. Date Required is the investigation date. Final Date is the 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

\$18

Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104306501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 6

Rule Cite(s)

TPDES General Permit No. TXR05U391, Part III, Section E.4.(b); Noncompliance Notification, and 30 Tex. Admin. Code § 305.125(9)

Violation Description

Failed to notify the Executive Director and appropriate regional office orally within 24 hours and in writing within five working days of the two unauthorized discharges that occurred on May 20, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 2

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

Violation Base Penalty \$2,000

Two single events are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$200

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

Notes

The Respondent achieved compliance by October 1, 2010 for this violation.

Violation Subtotal \$1,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$156

Violation Final Penalty Total \$4,730

This violation Final Assessed Penalty (adjusted for limits) \$4,730

Economic Benefit Worksheet

Respondent: Pilgrim's Pride Corporation
Case ID No.: 40444
Reg. Ent. Reference No.: RN104306501
Media: Water Quality
Violation No.: 6

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				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)	\$300	20-May-2010	1-Oct-2010	0.37	\$8	n/a	\$6

Notes for DELAYED costs

Estimated cost to develop and implement steps to notify the Executive Director and appropriate regional office orally within 24 hours and in writing within five working days of any noncompliance which may endanger human health or safety, or the environment. Date Required is the investigation date. Final Date is the compliance date.

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]	\$150	21-May-2010	25-May-2010	0.00	\$0	\$150	\$150
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost (\$25 per oral notice and \$50 per written notice) to submit the required noncompliance notifications. Date Required is the date the oral noncompliance notification was due. Final Date is the date the written noncompliance notification was due.

Approx. Cost of Compliance	\$450	TOTAL	\$156
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Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104306501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 7

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent unauthorized discharges of wastewater into or adjacent to water in the state. Specifically, during the May 20, 2010 investigation, it was noted that wastewater was pooling and standing between the west side concrete paved area and the railroad tracks near the area where the 6 inch sump line penetrates the outside concrete paved area and wastewater was also pooling and standing between the west side concrete paved area and the railroad tracks near the area where the 2 inch pipe line penetrates the outside concrete paved area.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

5 137 Number of violation days

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

Violation Base Penalty \$12,500

Five monthly events are recommended from the date of the discharge, May 7, 2010, to the screening date of September 21, 2010.

Good Faith Efforts to Comply

10.0% Reduction

\$1,250

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

Notes The Respondent achieved compliance by September 24, 2010 for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation-Final Penalty Total \$16,805

This violation Final Assessed Penalty (adjusted for limits) \$16,805

Economic Benefit Worksheet

Respondent: Pilgrim's Pride Corporation
Case ID No.: 40444
Reg. Ent. Reference No.: RN104306501
Media: Water Quality
Violation No.: 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$100	7-May-2010	24-Sep-2010	0.38	\$2	n/a	\$2
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$4,000	7-May-2010	24-Sep-2010	0.38	\$77	n/a	\$77

Notes for DELAYED costs
 Estimated cost to remove the existing pavement where the six inch sump line penetrates the concrete paving on the west side of the facility and pour a new pavement, to remove the existing pavement where the two inch pipeline penetrates the concrete paved area on west side of facility and pour a new slab with the seam of the slabs sealed, and to repair the defective float switch on an above ground drinking water tank and instruct the operators on the proper operation of the tank. Date Required is the date of the discharge. Final Date is the compliance date.

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$4,100
TOTAL \$79

Screening Date 21-Sep-2010

Docket No. 2010-1564-IWD-E

PCW

Respondent Pilgrim's Pride Corporation

Policy Revision 2 (September 2002)

Case ID No. 40444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104308501

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 8

Rule Cite(s)

TPDES General Permit No. TXR05U391, Part II, Section B.5., Discharges of Storm Water Mixed with Non-Storm Water, 30 Tex. Admin. Code § 321.54(4), and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to isolate process wastewater from outside surface drainage by ditches, diking, or other suitable structures where necessary to provide adequate environmental protection. Specifically, during the May 20, 2010 investigation, it was noted that wastewater had recently flowed over the south sump (storm water Outfall No. 2) catch grating and discharged down the concrete rip rap and into Stanley Branch. It was also noted that the paved concrete area is laid out so that rendering truck drippings, process wastewater from cleaning the totes, process wastewater from the live poultry holding area, and process wastewater from some areas inside the production buildings, is designed to run across the concrete paved areas to catch drains and into the sumps.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

6

124 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,500

Five monthly events are recommended from the investigation date of May 20, 2010 to the screening date of September 21, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$12,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$157

Violation Final Penalty Total \$18,055

This violation Final Assessed Penalty (adjusted for limits) \$18,055

Economic Benefit Worksheet

Respondent Pilgrim's Pride Corporation
Case ID No. 40444
Reg. Ent. Reference No. RN104306501
Media Water Quality
Violation No. 8

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	\$3,000	20-May-2010	28-Sep-2010	0.36	\$54	n/a	\$54
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	20-May-2010	30-May-2011	1.03	\$103	n/a	\$103

Notes for DELAYED costs

Estimated cost to isolate wastewater from outside surface drainage by ditches, diking, or other suitable structures where necessary to provide adequate environmental protection, and to apply micro-blaze to the areas along the edges of the receiving stream that had oily residue. Date Required is the investigation date. Final Date is the expected compliance date (30-May-2011) and the partial compliance date (28-Sep-2010).

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

\$157

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601276660	Pilgrim's Pride Corporation	Classification: AVERAGE	Rating: 3.22
Regulated Entity:	RN104306501	PILGRIMS PRIDE CORPORATION	Classification: AVERAGE	Site Rating: 26.20
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION STORMWATER	REGISTRATION PERMIT		76430 TXR05U391
Location:	928 MARTIN LUTHER KING JR BLVD, NACOGDOCHES, TX, 75961			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	September 20, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 20, 2005 to September 20, 2010			

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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: 9/1/2010 Repeat Violator: | NO |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 08/29/2008

ADMINORDER 2008-0144-IHW-E

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 335, SubChapter A 335.4

Description: Failure by Pilgrims Pride Corporation to prevent unauthorized discharge of industrial wastes to waters of the State.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)
30 TAC Chapter 327 327.3(b)

Description: Failure by Pilgrims Pride to report unauthorized discharge of process wastewater within 24 hours of occurrence.

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 | 07/21/2008 | (685062) |
| 2 | 12/19/2008 | (721768) |
| 3 | 04/18/2009 | (736209) |
| 4 | 11/04/2009 | (777057) |

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

Date: 07/21/2008 (685062) CN601276660
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure by Pilgrims Pride Corporation to prevent unauthorized discharge of industrial wastes.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)
MSGP, p3,SE4b1 PERMIT
Description: Failure by Pilgrims Pride to report unauthorized discharge of industrial wastes within 24 hours after the occurrence.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PILGRIM'S PRIDE
CORPORATION
RN104306501

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§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-1564-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Pilgrim's Pride Corporation ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a poultry slaughter and packaging plant at 928 Martin Luther King Junior Boulevard in Nacogdoches, Nacogdoches County, Texas (the "Facility").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of 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 September 18, 2010.
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 Eighty Thousand One Hundred Forty-Nine Dollars (\$80,149) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Sixty-Four Thousand One Hundred Twenty Dollars (\$64,120) of the administrative penalty and Sixteen Thousand Twenty-Nine Dollars (\$16,029) 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 Facility:
 - a. By September 24, 2010:
 - i. Removed the existing pavement where the six inch sump line penetrates the concrete paving on west side of the Facility and poured new pavement;
 - ii. Removed the existing pavement where the two inch pipeline penetrates the concrete paved area on west side of Facility and a new slab was poured with the seam of the slabs sealed; and
 - iii. Repaired the defective float switch on an above ground drinking water tank and instructed the operators on the proper operation of the tank.
 - b. By September 28, 2010, remediated the receiving stream by applying micro-blaze to the areas along the edges of the receiving stream that had oily residue.
 - c. By October 1, 2010:
 - i. Developed and implemented measures to ensure that the required monthly and weekly inspections, quarterly visual storm water outfall inspections, and annual comprehensive site compliance evaluations are conducted in the prescribed timeframe;
 - ii. Developed and implemented measures to ensure that the required certification language relating to signatories is included in all reports when no non-compliances are noted;
 - iii. Filed a waiver to exempt the Facility from the annual monitoring requirements for hazardous metals;

- iv. Revised the storm water pollution prevention plan ("SWP3") site map to include the Sector U specific requirements (cooking vents, plastic totes containers storage areas, and plastic tote container washout areas); and
 - v. Developed and implemented measures to ensure that the Executive Director and appropriate regional office are notified orally within 24 hours and in writing within five working days of any noncompliance which may endanger human health or safety, or the environment.
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 conduct monthly and weekly inspections, as described in their Storm Water Pollution Prevention Plan ("SWP3"), Section 6(G), to determine the effectiveness of the good housekeeping measures, spill prevention and response measures, erosion control measures, maintenance program for structural controls, best management practices, and employee training program, in violation of Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05U391, Part III, Section A.5.(g), Pollution Prevention Methods and Controls, as documented during an investigation conducted on May 20, 2010. Specifically, the last monthly inspection was performed on August 25, 2008 and the last weekly inspection was performed on August 18, 2008.
2. Failed to conduct the required quarterly visual storm water outfall inspections, in violation of TPDES General Permit No. TXR05U391, Part III, Section A.5.(h), Pollution Prevention Methods and Controls, as documented during an investigation conducted on May 20, 2010. Specifically, the quarterly visual storm water outfall inspections have never been performed for Outfall No. 1 since the permit was issued on January 8, 2007, the last quarterly inspection was performed on June 10, 2008 for Outfall No. 2, and the last quarterly inspection was performed on February 12, 2008 for Outfall No. 3.
3. Failed to conduct the annual comprehensive site compliance evaluation in 2008 and 2009, in violation of TPDES General Permit No. TXR05U391, Part III, Section A.7.(b), Annual Comprehensive Site Compliance Evaluation, as documented during an investigation conducted on May 20, 2010.

4. Failed to include the required certification language on all reports relating to signatories, in violation of TPDES General Permit No. TXR05U391, Part III, Section E.3.(g), Signatory Requirements for Reports and Certifications, and 30 TEX. ADMIN. CODE § 305.128(c), as documented during an investigation conducted on May 20, 2010. Specifically, the annual comprehensive site compliance evaluation conducted on September 18, 2007 did not include the required certification language relating to signatories.
5. Failed to conduct the annual hazardous metals monitoring by December 31st of each year, in violation of TPDES General Permit No. TXR05U391, Part III, Section D.1.(c), Discharges of Storm Water Runoff and (d) Reporting Requirements, as documented during an investigation conducted on May 20, 2010. Specifically, no hazardous metals samples have been collected and analyzed since the permit was issued on January 8, 2007.
6. Failed to indicate the location of cooking vents, plastic totes/containers storage areas, and plastic tote container washout areas in the site map, in violation of TPDES General Permit No. TXR05U391, Part V, Section U.2., Description of Potential Pollutants and Sources, as documented during an investigation conducted on May 20, 2010.
7. Failed to notify the Executive Director and appropriate regional office orally within 24 hours and in writing within five working days of the two unauthorized discharges that occurred on May 20, 2010, in violation of TPDES General Permit No. TXR05U391, Part III, Section E.4.(b), Noncompliance Notification, and 30 TEX. ADMIN. CODE § 305.125(9), as documented during an investigation conducted on May 20, 2010.
8. Failed to prevent unauthorized discharges of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on May 20, 2010. Specifically, during the May 20, 2010 investigation, it was noted that wastewater was pooling and standing between the west side concrete paved area and the railroad tracks near the area where the 6 inch sump line penetrates the outside concrete paved area.
9. Failed to prevent unauthorized discharges of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on May 20, 2010. Specifically, during the May 20, 2010 investigation, it was noted that wastewater was also pooling and standing between the west side concrete paved area and the railroad tracks near the area where the 2 inch pipe line penetrates the outside concrete paved area.
10. Failed to isolate process wastewater from outside surface drainage by ditches, diking, or other suitable structures where necessary to provide adequate environmental protection, in violation of TPDES General Permit No. TXR05U391, Part II, Section B.5., Discharges of Storm Water Mixed with Non-Storm Water, 30 TEX. ADMIN. CODE § 321.54(4), and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on May 20, 2010. Specifically, during the May 20, 2010 investigation, it was noted that wastewater had recently flowed over the south sump (storm water Outfall No. 2) catch grating and discharged down the concrete rip rap and into Stanley Branch. It was also noted that the paved concrete area is laid out so that rendering truck drippings, process wastewater from cleaning the totes, process wastewater from the live poultry holding

area, and process wastewater from some areas inside the production buildings, is designed to run across the concrete paved areas to catch drains and into the sumps.

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: Pilgrim's Pride Corporation, Docket No. 2010-1564-IWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, isolate wastewater from outside surface drainage by ditches, diking, or other suitable structures, in accordance with TPDES General Permit No. TXR05U391, Part II, Section B.5., Discharges of Storm Water Mixed with Non-Storm Water and 30 TEX. ADMIN. CODE § 321.54(4); and
 - b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sredler
For the Executive Director

Date 3/11/2011

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.

Robert Sredler
Signature

11/3/2011
Date

Robert Gaultney Sr.
Name (Printed or typed)
Authorized Representative of
Pilgrim's Pride Corporation

Complet Mgr.
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.