

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0759-AIR-E RN100776509 CASE NO. 39660
RESPONDENT NAME: ATLAS PALLET INDUSTRIES, INC

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 checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input 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: 3532 South Interstate 35 West, Alvarado, Johnson County

TYPE OF OPERATION: pallet manufacturing

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 January 24, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Steven M. Fishburn, Litigation Division, MC 175, (512) 239-3400
 Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Heather Podlipny, Air Enforcement Section, MC 149 (512) 239-2603

TCEQ Regional Contact: Alyssa Taylor, Dallas/Fort Worth Regional Office, MC R-04, (817) 588-5828

Respondent: Frank Agent, Atlas Pallet Industries, Inc, 92 Monticello Drive, Mansfield, Texas 76063

Respondent's Attorney: David A. Coggin, Law Offices of David A. Coggin, 250 N.W. Tarrant Avenue, Suite E, Burleson, Texas 76028

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint: N/A</p> <p>Dates of Investigation: February 4, 2010 May 4, 2010</p> <p>Date of NOE: April 29, 2010</p> <p>Background Facts:</p> <p>The EDPRP was filed on October 6, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received the EDPRP on October 8, 2010. Respondent failed to file an answer and failed to request a hearing.</p> <p>Current Compliance Status:</p> <p>Respondent ceased operations at the Plant by October 31, 2009, and voided their Federal Operating Permit on March 9, 2010. Respondent owes \$348.40 in past due fees.</p> <p>AIR:</p> <p>1. Failed to submit a Permit Compliance Certification ("PCC") [30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085].</p> <p>2. Failed to pay outstanding General Permits Stormwater fees and associated late fees for TCEQ Financial Account No. 20036462 for fiscal year 2010 [30 TEX. ADMIN. CODE § 205.6 AND TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$1,130</p> <p>Total Deferred: \$0</p> <p><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: \$1,130</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> <p>1. Within 30 days:</p> <p>a. Submit payment for all outstanding fees, including any associated penalties and interest.; and</p> <p>b. Submit the PCC report for the November 13, 2008, through November 12, 2009, reporting period for voided Federal Operating permit No. O-02988.</p> <p>2. Within 45 days, submit written certification demonstrating compliance.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATE Assigned	3-May-2010	Screening	11-May-2000	EPA Due	
PCW	27-Aug-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Atlas Pallet Industries, Inc.		
Reg. Ent. Ref. No.	RN100776509		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39660	No. of Violations	2
Docket No.	2010-0759-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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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	13.0% Enhancement	Subtotals 2, 3, & 7	\$130
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Notes: The penalty was enhanced due to one similar NOV and four dissimilar NOV's.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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	\$3
Approx. Cost of Compliance	\$250

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,130
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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:

Final Penalty Amount \$1,130

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,130
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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.

PAYABLE PENALTY	\$1,130
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Screening Date 11-May-2000

Docket No. 2010-0759-AIR-E

PCW

Respondent Atlas Pallet Industries, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39660

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100776509

Media [Statute] Air

Enf. Coordinator Heather Podlipny

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	4	8%
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	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%

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) 13%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced due to one similar NOV and four dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 13%

Screening Date 11-May-2000 **Docket No.** 2010-0759-AIR-E **PCW**
Respondent Atlas Pallet Industries, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 39660 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100776509
Media [Statute] Air
Enf. Coordinator Heather Podlipny

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 122.146(2) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to submit a Permit Compliance Certification ("PCC"), as documented during an investigation conducted on February 4, 2010. Specifically, the Respondent did not submit the PCC for the November 13, 2008 through November 12, 2009 reporting period.
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="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
100% of the rule requirement was not met.					
Adjustment					<input type="text" value="\$9,000"/>

Violation Events

Number of Violation Events Number of violation days
mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty
 One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)
Notes	The Respondent ceased operations by October 31, 2009 and voided Federal Operating Permit No. O-02988 on March 9, 2010.	
Violation Subtotal <input type="text" value="\$1,000"/>		

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 Atlas Pallet Industries, Inc.
Case ID No. 39660
Req. Ent. Reference No. RN100776509
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	12-Dec-2009	10-Mar-2010	0.24	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for preparation and submittal of a PCC. The Date Required is the date the report should have been submitted and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$3

Screening Date 11-May-2000 **Docket No.** 2010-0759-AIR-E **PCW**
Respondent Atlas Pallet Industries, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 39660 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100776509
Media [Statute] Air
Enf. Coordinator Heather Podlipny

Violation Number
Rule Cite(s)
Violation Description
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="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
<input type="text"/>					
Adjustment					<input type="text" value="\$10,000"/>

Violation Events

Number of Violation Events Number of violation days
mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)	
Notes	<input type="text"/>		
Violation Subtotal			<input type="text" value="\$0"/>

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 Atlas Pallet Industries, Inc.
Case ID No. 39660
Req. Ent. Reference No. RN100776509
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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
Buildings				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0
Engineering/construction				0.00	\$0	\$0
Land				0.00	\$0	n/a
Record Keeping System				0.00	\$0	n/a
Training/Sampling				0.00	\$0	n/a
Remediation/Disposal				0.00	\$0	n/a
Permit Costs				0.00	\$0	n/a
Other (as needed)				0.00	\$0	n/a

Notes for DELAYED costs

N/A

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

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600462733 Atlas Pallet Industries, Inc. Classification: AVERAGE Rating: 1.43
Regulated Entity: RN100776509 ATLAS PALLET INDUSTRIES Classification: AVERAGE Site Rating: 1.43
ID Number(s): AIR OPERATING PERMITS PERMIT 2988
AIR OPERATING PERMITS ACCOUNT NUMBER JH0130Q
AIR NEW SOURCE PERMITS ACCOUNT NUMBER JH0130Q
AIR NEW SOURCE PERMITS AFS NUM 4825100066
STORMWATER PERMIT TXR05W530
AIR EMISSIONS INVENTORY ACCOUNT NUMBER JH0130Q
Location: 3532 S INTERSTATE 35 W, ALVARADO, TX, 76009
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 04, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 04, 2005 to May 04, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Heather Podlipny Phone: 239 - 2603

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 OWNOPR
3. If Yes, who is the current owner/operator? Atlas Pallet Industries, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN Atlas Pallet Industries, Inc.
5. When did the change(s) in owner or operator occur? 09/14/2007 OWN Atlas Pallet Industries, Inc.
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 | 12/20/2006 | (284151) |
| 2 | 12/20/2006 | (284289) |
| 3 | 12/22/2006 | (485528) |
| 4 | 02/26/2007 | (541628) |
| 5 | 09/16/2008 | (700951) |
| 6 | 03/13/2009 | (736131) |
| 7 | 10/27/2009 | (775120) |
| 8 | 04/26/2010 | (794577) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/04/2006 (485363)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to meet Special Condition (d) of Standard Exemption 97 (June 18, 1992).

Date: 12/28/2006 (485528)

CN600462733

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter C 116.211(d)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to maintain abatement equipment in good condition and operated properly during operation of the facility as required by 30 TAC § 116.211(d).

Date: 12/06/2007 (597205)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to comply with the General Prohibition of Outdoor Burning (30 TAC 111.201) for not meeting an exception as provided in 30 TAC 111.205-111-215, during the July 27, 2007, investigation.

Date: 03/16/2009 (736131)

CN600462733

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)

Description: Failure to submit an Annual Compliance Certification within 30 days after the end of the certification period, a violation of 30 TAC 122.146(2). During this investigation, the compliance period of November 13, 2007, through November 12, 2008, was reviewed. This facility is not a major source, therefore this violation is not considered an HPV.

Date: 04/29/2010 (794577)

CN600462733

Self Report? YES

Classification: Moderate

Citation: 14 OP
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to conduct, record, and report annual opacity monitoring; a violation of Condition 14 of Title V FOP #O-02988 and 30 TAC 122.143(4).

- 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
ATLAS PALLET INDUSTRIES, INC.;	§	
RN100776509	§	ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2010-0759-AIR-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 chs. 5, 7, and 26, TEX. HEALTH & SAFETY CODE ch. 382, 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 Atlas Pallet Industries, Inc. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operated a pallet manufacturing business located at 3532 South Interstate 35 West in Alvarado, Johnson County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). Respondent has discharged waste from the Plant into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During an investigation conducted on February 4, 2010, a TCEQ Dallas-Fort Worth Regional Office investigator documented that Respondent failed to submit a Permit Compliance Certification ("PCC"). Specifically, Respondent did not submit the PCC for the November 13, 2008, through November 12, 2009, reporting period.
3. During a record review conducted May 4, 2010, a TCEQ Central Office Enforcement Coordinator documented that Respondent failed to pay outstanding General Permits Stormwater fees and associated late fees for TCEQ Financial Account No. 20036462 for fiscal year 2010.
4. Respondent received notice of the violation in Finding of Fact No. 2 on or about May 4, 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 Atlas Pallet Industries, Inc.," (the "EDPRP") in the TCEQ Chief Clerk's office on October 6, 2010.

6. By letter dated October 6, 2010, sent to Respondent's last known address 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 October 8, 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, failed to request a hearing, and failed to schedule a settlement conference.
8. The Executive Director recognizes that Respondent ceased operations by October 31, 2009, and voided Federal Operating Permit No. O-02988 on March 9, 2010.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to submit a PCC, in violation of 30 TEX. ADMIN. CODE § 122.146(2) and TEX. HEALTH & SAFETY CODE § 382.085.
3. As evidenced by Finding of Fact No. 3, Respondent failed to pay outstanding General Permits Stormwater fees and associated late fees for TCEQ Financial Account No. 20036462 for fiscal year 2010, in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702.
4. 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).
5. 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.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of one thousand one hundred thirty dollars (\$1,130.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 one thousand one hundred thirty dollars (\$1,130.00) 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: Atlas Pallet Industries, Inc.; Docket No. 2010-0759-AIR-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Submit payment for all outstanding fees, including any associated penalties and interest and with the notation: "Re: Atlas Pallet Industries, Inc., TCEQ Financial Account No. 20036462" 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

- ii. Submit the PCC report for the November 13, 2008, through November 12, 2009, reporting period for voided Federal Operating permit No. O-02988 to:

Alyssa Taylor, Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Dr.
Fort Worth TX 76118-6951

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and /or other records, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Alyssa Taylor, Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Dr.
Fort Worth TX 76118-6951

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 Plant 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.

Atlas Pallet Industries, Inc.
Docket No. 2010-0759-AIR-E
Page 6

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEVEN M. FISHBURN

STATE OF TEXAS

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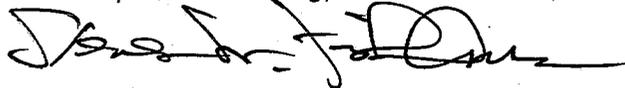
COUNTY OF Travis

"My name is Steven M. Fishburn. 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 Atlas Pallet Industries, Inc.," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 6, 2010.

The EDPRP was mailed to Respondent's last known address on October 6, 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 October 8, 2010, as evidenced by the signature on the card.

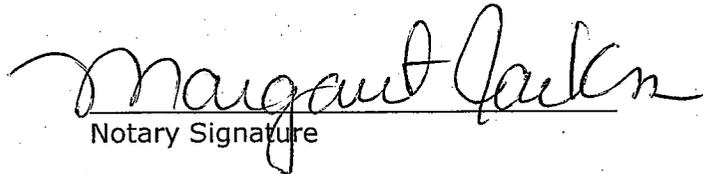
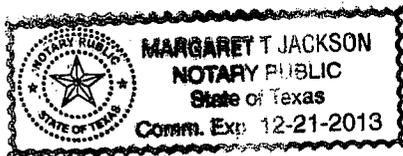
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Steven M. Fishburn, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Steven M. Fishburn, 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 17th day of November, A.D. 2010.


Notary Signature