

Executive Summary – Enforcement Matter – Case No. 40024
Gainesville Foundry, Inc.
RN100778547
Docket No. 2010-1132-MLM-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
MLM - IHW and AIR

Small Business:
No

Location(s) Where Violation(s) Occurred:
2301 North Foundry Road, Gainesville, Cooke County

Type of Operation:
Iron foundry

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: June 24, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$56,465

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$1,690

Total Due to General Revenue: \$54,775

Payment Plan: 35 payments of \$1,565 each

SEP Conditional Offset: N/A

Compliance History Classifications:
Person/CN – Average
Site/RN – Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: December 3, 2009 through December 17, 2009
Date(s) of NOV(s): February 3, 2006; November 29, 2007; January 22, 2010
Date(s) of NOE(s): June 29, 2010

Violation Information

1. Failed to manage industrial solid waste in a manner as to prevent unauthorized discharges [30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121].
2. Failed to maintain an accurate Notice of Registration (“NOR”) [30 TEX. ADMIN. CODE § 335.6(c)].
3. Failed to submit a complete Annual Waste Summary for 2008 [30 TEX. ADMIN. CODE 335.9(a)(2)].
4. Failed to provide proper training to personnel handling hazardous baghouse dust at the Facility [30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 C.F.R. § 265.16(a)(2), (c), (d)(3) and (d)(4)].
5. Failed to maintain an adequate contingency plan [30 TEX. ADMIN. CODE § 335.112(a)(3) and 40 C.F.R. § 265.52(a), (d) and (f)].
6. Failed to properly store and manage paint waste [30 TEX. ADMIN. CODE § 335.262(c)(2)(A)].
7. Failed to store hazardous waste on-site for less than 90 days [30 TEX. ADMIN. CODE § 335.69(a) and 40 C.F.R. § 262.34(a)].
8. Failed to conduct hazardous waste determinations [30 TEX. ADMIN. CODE §§ 335.503, 335.504, 335.62 and 40 C.F.R. § 262.11].
9. Failed to maintain paint booth filters in order to ensure a minimum of 95% removal efficiency for particulate matter [30 TEX. ADMIN. CODE 106.433(6)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On July 23, 2009, implemented procedures for ensuring hazardous waste is stored on-site for less than 90 days.

Technical Requirements:

1. Immediately,
 - a. Begin managing industrial solid waste at the Facility in a manner to prevent unauthorized discharges; and
 - b. Provide a paint booth filter system with a 95% removal efficiency for particulate matter.
2. Within 30 days:
 - a. Conduct hazardous waste determinations and classifications on the waste stored in the 55-gallon drum and the excavated contaminated soil stored above ground at the Facility;
 - b. Update the Facility’s NOR to include the wet sand shaker sludge and the two container storage areas;
 - c. Submit a complete Annual Waste Summary for the reporting year 2008;

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- d. Provide proper training to Facility personnel for the handling of hazardous waste;
 - e. Provide an adequate contingency plan for the Facility; and
 - f. Implement procedures that ensure the proper management and storage of paint waste
3. Within 60 days, submit an Affected Property Assessment Report (“APAR”) to the Executive Director.
4. Within 70 days, submit written documentation demonstrating compliance.

Litigation Information

Date Petition(s) Filed: December 22, 2010
Date Answer(s) Filed: January 5, 2011
SOAH Referral Date: February 7, 2011
Hearing Date(s):
Preliminary hearing: March 24, 2011 (waived)
Evidentiary hearing: August 11, 2011
Settlement Date: May 27, 2011

Contact Information

TCEQ Attorneys: Gary K. Shiu, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ SEP Coordinator: N/A
TCEQ Enforcement Coordinator: John Muennink, Waste Enforcement Section, (361) 825-3423
TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903
Respondent: Ralph Lewis, President, Gainesville Foundry, Inc., 2301 Foundry Road, P.O. Box 1259, Gainesville, Texas 76241-1259
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Jul-2010	Screening	13-Jul-2010	EPA Due	
	PCW	1-Nov-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Gainesville Foundry, Inc.		
Reg. Ent. Ref. No.	RN100778547		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40024	No. of Violations	9
Docket No.	2010-1132-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	John Muennink
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$49,100
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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	15.0% Enhancement	Subtotals 2, 3, & 7	\$7,365
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Notes	Enhancement for three NOVs with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,157	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$21,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$56,465
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$56,465
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$56,465
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral because this is not an expedited settlement.
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PAYABLE PENALTY	\$56,465
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Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

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>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of</i>	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

>> 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 three NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 13-Jul-2010

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Policy Revision 2 (September 2002)

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PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4 and Tex. Water Code § 26.121

Violation Description Failed to manage industrial solid waste in a manner as to prevent unauthorized discharges. Specifically, used oil and other petroleum based lubricants had been discharged on to the soil adjacent to the south side of a concrete slab housing a used oil tank and an electric power generator. Additionally, foundry sand was discharging off-site from the Facility, and a waste pile associated with the on-site landfill was piled above ground near Pecan Creek with no barrier to prevent run-off.

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 an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 208 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three quarterly events are recommended based on the date that the investigation was completed on December 17, 2009 to the screening date of July 13, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$519

Violation Final Penalty Total \$8,625

This violation Final Assessed Penalty (adjusted for limits) \$8,625

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$10,000	17-Dec-2009	31-Dec-2010	1.04	\$519	n/a	\$519
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to properly dispose of waste at the Facility. The Date Required is the date of the investigation that documented the violation. The Final Date is the date that corrective measures are estimated to be completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$519

Screening Date 13-Jul-2010

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PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description Failed to maintain an accurate Notice of Registration ("NOR"). Specifically, the Respondent has not updated its NOR to include the wet sand shaker sludge and two container storage areas.

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	1%

The Respondent has met at least 70% of the rule requirement.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 1643 Number of violation days

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

Violation Base Penalty \$100

One single event is based on the NOR that has yet to be properly updated.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$115

This violation Final Assessed Penalty (adjusted for limits) \$115

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	17-Dec-2009	31-Dec-2010	1.04	\$26	n/a	\$26
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 expense to update the Facility's NOR to include the wet sand shaker sludge and the two container storage areas. The Date Required is the date of the investigation that documented the violation. The Final Date is the date that corrective measures are estimated to be completed.

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

\$500

TOTAL

\$26

Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(2)

Violation Description Failed to submit a complete Annual Waste Summary for 2008. Specifically, the quantity of hazardous and industrial non-hazardous class 1 waste generated by the Respondent for 2008 was not provided during the investigation or included in the Annual Waste Summary for 2008. The TCEQ Industrial Hazardous Waste Registration and Reporting Section returned the Annual Waste Summary for 2008 due to errors, and the errors had not been corrected.

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			25%
The Respondent failed to meet 100% of the rule requirement.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 365 Number of violation days

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

Violation Base Penalty \$2,500

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26 Violation Final Penalty Total \$2,875

This violation Final Assessed Penalty (adjusted for limits) \$2,875

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$500	17-Dec-2009	31-Dec-2010	1.04	\$26	n/a	\$26

Notes for DELAYED costs

Estimated expense to prepare and submit a complete Annual Waste Summary for the reporting year 2008. The Date Required is the date that the investigation was completed. The Final Date is the date that corrective measures are estimated to be completed.

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

\$500

TOTAL

\$26

Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.112(a)(1) and 40 Code of Federal Regulations ("CFR") § 265.16(a)(2), (c), (d)(3) and (d)(4)

Violation Description

Failed to provide proper training for the handling of hazardous waste material. Specifically, the Respondent failed to document and record training given to each employee and to provide an annual review of training to personnel handling hazardous baghouse dust. Additionally, the training that was provided was not administered by an individual that had been properly trained in hazardous waste management.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment could be exposed to a significant amount of pollutants that would exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 222 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

One single event is recommended based on the training that is not being properly conducted.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$260

Violation Final Penalty Total \$5,750

This violation Final Assessed Penalty (adjusted for limits) \$5,750

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
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
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	\$5,000	17-Dec-2009	31-Dec-2010	1.04	\$260	n/a	\$260
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 expense to provide proper training for the handling of hazardous waste. The Date Required is the date that the investigation was completed. The Final Date is the date that corrective measures are estimated to be completed.

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

\$260

Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 335.112(a)(3) and 40 CFR § 265.52(a), (d) and (f)

Violation Description Failed to maintain an adequate contingency plan. Specifically, the Facility's contingency plan failed to include an evacuation plan for personnel and/or documentation of an emergency response arrangement with surrounding fire departments, an up-to-date list of hospital contacts and a response procedure for naphthalene releases.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment could be exposed to significant amount of pollutants that would exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 222 Number of violation days

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$5,000

One single event is recommended based on the inadequate contingency plan.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$5,750

This violation Final Assessed Penalty (adjusted for limits) \$5,750

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
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
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)	\$500	17-Dec-2009	31-Dec-2010	1.04	\$26	n/a	\$26

Notes for DELAYED costs

Estimated expense to provide an adequate contingency plan. The Date Required is the date that the investigation was completed. The Final Date is the date that corrective measures are estimated to be completed.

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

\$500

TOTAL

\$26

Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 335.262(c)(2)(A)

Violation Description Failed to properly store and manage paint waste. Specifically, TCEQ investigators observed three 5-gallon buckets of paint waste without lids.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential			x	10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment could be exposed to an insignificant amount of pollutants that would not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 3 Number of violation days

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

Violation Base Penalty \$3,000

Three single events are recommended based on the three buckets.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$3,450

This violation Final Assessed Penalty (adjusted for limits) \$3,450

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
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

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	17-Dec-2009	31-Dec-2010	1.04	\$26	n/a	\$26

Notes for DELAYED costs

Estimated expense to implement procedures designed that ensure the proper management, storage and disposal of paint waste. The Date Required is the date that the investigation was completed. The Final Date is the date that corrective measures are estimated to be completed.

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

\$500

TOTAL

\$26

Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a) and 40 CFR § 262.34(a)

Violation Description Failed to store hazardous waste on-site for less than 90 days. Specifically, baghouse dust shipped on January 29, 2008, June 6, 2008 and October 10, 2008 exceeded the 90-day storage limit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment could be exposed to a significant amount of pollutants that would exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

3 450 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$15,000

Three single events are recommended for the three shipments of hazardous waste.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$67

Violation Final Penalty Total \$17,250

This violation Final Assessed Penalty (adjusted for limits) \$17,250

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
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
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)	\$500	29-Apr-2008	31-Dec-2010	2.67	\$67	n/a	\$67

Notes for DELAYED costs

Estimated expense to implement measures and procedures designed to ensure the timely removal of hazardous waste. The Date Required is the first date of non-compliance. The Final Date is the date that corrective measures are estimated to be completed.

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

\$500

TOTAL

\$67

Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 335.503, 335.504 and 335.62 and 40 CFR § 262.11

Violation Description Failed to conduct hazardous waste determinations. Specifically, no hazardous waste determinations were conducted on waste stored in a 55-gallon drum at the Facility and on excavated soil contaminated with oil being stored above ground on a plastic sheet at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (50%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment could be exposed to a significant amount of pollutants that would exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Table for Violation Events including frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and duration (2 days). Includes 'Violation Base Penalty \$10,000'.

Two single events are recommended based on the two waste determinations that were not made.

Good Faith Efforts to Comply

Table for Good Faith Efforts to Comply showing 0.0% reduction and categories: Extraordinary, Ordinary, N/A.

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$104 Violation Final Penalty Total \$11,500

This violation Final Assessed Penalty (adjusted for limits) \$11,500

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
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
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	\$2,000	17-Dec-2009	31-Dec-2010	1.04	\$104	n/a	\$104
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 expense to conduct a hazardous waste determination on the waste contained in a 55-gallon drum and the excavated, oil contaminated soil. The Date Required is the date that the investigation was completed. The Final Date is the date that corrective measures are estimated to be completed.

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

\$2,000

TOTAL

\$104

Screening Date 13-Jul-2010

Docket No. 2010-1132-MLM-E

PCW

Respondent Gainesville Foundry, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40024

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100778547

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator John Muennink

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 106.433(6)(C) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain paint booth filters in order to ensure a minimum of 95% removal efficiency for particulate matter. Specifically, the paint booth filters were saturated and peeling away from the walls, decreasing the filter system's efficiency for capturing emissions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment could be exposed to an insignificant amount of pollutants that would not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended for the paint booth emissions capture system.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$104

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent Gainesville Foundry, Inc.
Case ID No. 40024
Req. Ent. Reference No. RN100778547
Media Industrial and Hazardous Waste
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	17-Dec-2009	31-Dec-2010	1.04	\$104	n/a	\$104

Notes for DELAYED costs

Estimated expense to maintain the paint booth filter system to provide a minimum of 95% removal efficiency of particulate matter. The Date Required is the date that the investigation was completed. The Final Date is the date that corrective measures are estimated to be completed.

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

\$2,000

TOTAL

\$104

Compliance History Report

Customer/Respondent/Owner-Operator: CN600464713 Gainesville Foundry, Inc. Classification: AVERAGE Rating: 5.33
Regulated Entity: RN100778547 GAINESVILLE FOUNDRY Classification: AVERAGE Site Rating: 5.33
ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD007322589
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30911
AIR NEW SOURCE PERMITS ACCOUNT NUMBER CV0011K
AIR NEW SOURCE PERMITS AFS NUM 4809700001
AIR NEW SOURCE PERMITS PERMIT 73498

Location: 2301 N FOUNDRY RD, GAINESVILLE, TX, 76240

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: July 08, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 08, 2005 to July 08, 2010

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

Name: John Muennink Phone: (361) 825-3100

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 02/03/2006 (451887)
 - 2 01/24/2008 (615191)
 - 3 06/28/2010 (799878)

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

Date: 02/03/2006

(451887)

CN600464713

Self Report? NO

Classification: Moderate

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

Description: Failure to prevent discharge of oil or other petroleum products to surface soils at site.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failure to maintain accurate Notice of Registration.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Description: Failure to submit Annual Waste summaries from 2000 through 2004.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 324, SubChapter A 324.1
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)

Description: Failure to appropriately label Used Oil Tank.

Date: 11/29/2007

(600828)

CN600464713

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)
5C THSC Chapter 382, SubChapter A 382.085(b)
73498/General Condition 9 PERMIT

Description: Unauthorized emission where corrective action will take less than 6 months to complete.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
73498/SPECIAL CONDITION 18 PERMIT

Description: Unauthorized emission where corrective action will take less than 6 months to complete.

Date: 01/22/2010 (788756)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR050000 PERMIT

Description: Failure to obtain authorization to discharge storm water associated with industrial activities. At the time of the investigation, Gainesville Foundry was documented operating a ductile iron foundry without proper storm water authorization.

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
GAINESVILLE FOUNDRY, INC.;
RN100778547**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1132-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Gainesville Foundry, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates an iron foundry located at 2301 North Foundry Road in Gainesville, Cooke County, Texas (the "Facility"). The Facility consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Facility involves the management and/or the disposal of industrial and hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of fifty-six thousand four hundred sixty-five dollars (\$56,465.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one thousand six hundred ninety dollars (\$1,690.00) of the administrative penalty. The remaining amount of fifty-four thousand seven hundred seventy-five dollars (\$54,775.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one thousand five

hundred sixty-five dollars (\$1,565.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that on July 23, 2009, Respondent implemented procedures for ensuring hazardous waste is stored on-site for less than 90 days (Allegation 1.g.).
9. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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

1. During an investigation conducted December 3, 2009 through December 17, 2009, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to manage industrial solid waste in a manner as to prevent unauthorized discharges. Specifically, used oil and other petroleum based lubricants had been discharged onto the soil adjacent to the south side of a concrete slab which housed a used oil tank and an electric power generator. Additionally, foundry sand from the Facility was discharging off-site, and a waste pile associated with the on-site landfill was piled above ground near Pecan Creek with no barrier to prevent run-off, in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121;
 - b. Failed to maintain an accurate Notice of Registration ("NOR"). Specifically, Respondent has not updated its NOR to include the wet sand shaker sludge and two container storage areas, in violation of 30 TEX. ADMIN. CODE § 335.6(c);

- c. Failed to submit a complete Annual Waste Summary for 2008. Specifically, the quantity of hazardous and industrial non-hazardous Class 1 waste generated at the Facility during 2008 was not provided during the investigation or included in the Annual Waste Summary for 2008. The TCEQ Industrial Hazardous Waste Registration and Reporting Section returned the 2008 Annual Waste Summary to Respondent due to errors, and Respondent has not submitted an updated Summary, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(2);
 - d. Failed to provide proper training to personnel handling hazardous baghouse dust at the Facility. Specifically, training provided to Facility personnel was not administered by an individual who was properly trained in hazardous waste management, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 C.F.R. § 265.16(a)(2), (c), (d)(3) and (d)(4);
 - e. Failed to maintain an adequate contingency plan. Specifically, the Facility's contingency plan failed to include an evacuation plan for personnel and/or documentation of an emergency response arrangement with surrounding fire departments, an up-to-date list of hospital contacts and a response procedure for naphthalene releases, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(3) and 40 C.F.R. § 265.52(a), (d) and (f);
 - f. Failed to properly store and manage paint waste. Specifically, TCEQ investigators observed three 5-gallon buckets of paint waste without lids, in violation of 30 TEX. ADMIN. CODE § 335.262(c)(2)(A);
 - g. Failed to store hazardous waste on-site for less than 90 days. Specifically, baghouse dust shipped from the Facility on January 29, 2008, June 6, 2008, and October 10, 2008, exceeded the 90-day storage limit, in violation of 30 TEX. ADMIN. CODE § 335.69(a) and 40 C.F.R. § 262.34(a);
 - h. Failed to conduct hazardous waste determinations. Specifically, no hazardous waste determinations were conducted on waste stored in a 55-gallon drum at the Facility and on excavated soil contaminated with oil which was being stored above ground on a plastic sheet at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 335.503, 335.504 and 335.62 and 40 C.F.R. § 262.11; and
 - i. Failed to maintain paint booth filters in order to ensure a minimum of 95% removal efficiency for particulate matter. Specifically, the paint booth filters were saturated and peeling away from the walls, decreasing the filter system's efficiency for capturing emissions, in violation of 30 TEX. ADMIN. CODE § 106.433(6)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b).
2. Respondent received notice of the violations on or about July 4, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Gainesville Foundry, Inc., Docket No. 2010-1132-MLM-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall:
 - i. Begin managing industrial solid waste at the Facility in a manner to prevent unauthorized discharges, in accordance with 30 TEX. ADMIN. CODE § 335.4 (Allegation 1.a.); and
 - ii. Provide a paint booth filter system with a 95% removal efficiency for particulate matter, in accordance with 30 TEX. ADMIN. CODE § 106.433 (Allegation 1.i.).
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Conduct hazardous waste determinations and classifications on the waste stored in the 55-gallon drum and the excavated contaminated soil stored above ground at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.62 (Allegation 1.h.), and dispose of the soil at an authorized facility;
 - ii. Update the Facility's NOR to include the wet sand shaker sludge and the two container storage areas, in accordance with 30 TEX. ADMIN. CODE § 335.6 (Allegation 1.b.);
 - iii. Submit a complete Annual Waste Summary for the reporting year 2008, in accordance with 30 TEX. ADMIN. CODE § 335.9 (Allegation 1.c.);
 - iv. Provide proper training to Facility personnel for the handling of hazardous waste, in accordance with 30 TEX. ADMIN. CODE § 335.112(a)(1) and 40 C.F.R. § 265.16 (Allegation 1.d.);

- v. Provide an adequate contingency plan for the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.112(a)(3) and 40 C.F.R. 265.52 (Allegation 1.e.); and
 - vi. Implement procedures that ensure the proper management and storage of paint waste, in accordance with 30 TEX. ADMIN. CODE § 335.262 (Allegation 1.f.).
- c. Within 60 days after the effective date of this Agreed Order, Respondent shall submit an Affected Property Assessment Report ("APAR") to the Executive Director for approval for the areas of the Facility referenced in Allegation No. 1.a. (contaminated soil surrounding the concrete slab, foundry sand, and the soil underneath and surrounding the waste pile), pursuant to 30 Tex. Admin. Code § 350.91. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 Tex. Admin. Code ch. 350 which may include: plans, reports, and notices under Subchapter E (30 Tex. Admin. Code §§ 350.92 to 350.96); financial assurance (30 Tex. Admin. Code § 350.33(1)); and Institutional Controls under Subchapter F. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the APAR within 30 days after the date of such requests, or by any other deadline specified by TCEQ in writing.
- d. Within 70 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c.. The certification shall be notarized by a State of Texas Notary Public and shall 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
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

and:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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.
6. 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 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. 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

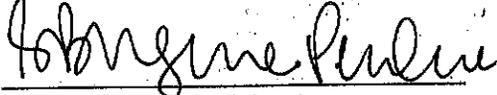
signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, 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.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/28/2011

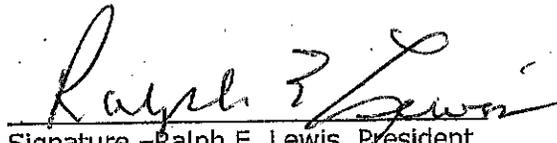
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Gainesville Foundry, Inc., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature -Ralph E. Lewis, President
Gainesville Foundry, Inc.

May 27, 2011
Date