

**Executive Summary – Enforcement Matter – Case No. 42638
RIO GRANDE VALLEY SUGAR GROWERS, INC.
RN100825405
Docket No. 2011-1785-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

RIO GRANDE VALLEY SUGAR GROWERS, INC., located approximately two and a half miles west of Santa Rosa on Highway 107 at Farm-to-Market Road 1425, Hidalgo County

Type of Operation:

Sugar cane processing mill

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 9, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,900

Amount Deferred for Expedited Settlement: \$2,980

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$11,920

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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RN100825405
Docket No. 2011-1785-AIR-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 28, 2011

Date(s) of NOE(s): August 30, 2011

Violation Information

1. Failed to submit semi-annual deviation reports for the May 9, 2010 to November 8, 2010 and November 9, 2010 to May 8, 2011 reporting periods. Specifically, deviations were documented to have occurred during the reporting periods, however, the Respondent failed to submit deviation reports [Federal Operating Permit ("FOP") No. O995, General Terms and Conditions, 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to comply with the bagasse consumption limit for Boiler Nos. 2 and 4. Specifically, the bagasse consumption limit for Boiler No. 2 is 28 tons per hour ("tph"), however, seven hourly exceedances averaging 28.80 tph were documented from October 13, 2010 to March 17, 2011. In addition, the bagasse consumption limit for Boiler No. 4 is 19 tph, however, 96 hourly exceedances averaging 22.21 tph were documented from October 13, 2010 to March 17, 2011 [FOP No. O995, Special Terms and Conditions No. 7, New Source Review Permit ("NSRP") Nos. 114 and PSDTX1024, Special Conditions No. 7, 30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(b)(1)(c), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent submitted a deviation report on October 6, 2011. The deviation report detailed the previously unreported deviations that were documented to have occurred during the May 9, 2010 to November 8, 2010 and November 9, 2010 to May 8, 2011 reporting periods. In addition, the Respondent implemented training measures to ensure that deviations are reported as required.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, submit an administratively complete permit amendment application for the bagasse consumption limits for Boiler Nos. 2 and 4;

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b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and

c. Within 180 days, submit written certification demonstrating compliance with the current bagasse consumption limits in NSRP Nos. 114 and PSDTX1024, or any amended bagasse consumption limit or alternatively authorized parameter for determining and monitoring emissions from Boiler Nos. 2 and 4.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.
TCEQ SEP Coordinator: N/A
Respondent: Randy Rolando, President/CEO, RIO GRANDE VALLEY SUGAR GROWERS, INC., P.O. Box 459, Santa Rosa, Texas 78593
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Sep-2011	Screening	16-Sep-2011	EPA Due	
	PCW	16-Sep-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	RIO GRANDE VALLEY SUGAR GROWERS, INC.		
Reg. Ent. Ref. No.	RN100825405		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	42638	No. of Violations	2
Docket No.	2011-1785-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Johnson
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 16-Sep-2011

Docket No. 2011-1785-AIR-E

PCW

Respondent RIO GRANDE VALLEY SUGAR GROWERS, INC.

Policy Revision 2 (September 2002)

Case ID No. 42638

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100825405

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	12	24%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 54%

>> 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 two NOVs with same/similar violations, 12 NOVs with dissimilar violations, and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 54%

Screening Date 16-Sep-2011

Docket No. 2011-1785-AIR-E

PCW

Respondent RIO GRANDE VALLEY SUGAR GROWERS, INC.

Policy Revision 2 (September 2002)

Case ID No. 42638

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100825405

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 1

Rule Cite(s) Federal Operating Permit ("FOP") No. 0995, General Terms and Conditions, 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(B), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit semi-annual deviation reports for the May 9, 2010 to November 8, 2010 and November 9, 2010 to May 8, 2011 reporting periods. Specifically, deviations were documented to have occurred during the reporting periods, however, the Respondent failed to submit deviation reports.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 282

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

Violation Base Penalty \$5,000

Two single events are recommended based on the two deviation reports that were not submitted.

Good Faith Efforts to Comply

10.0% Reduction \$500

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

Notes The Respondent completed corrective measures on October 6, 2011, after the August 30, 2011 Notice of Enforcement and before the initial settlement offer.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$7,200

This violation Final Assessed Penalty (adjusted for limits) \$7,200

Economic Benefit Worksheet

Respondent RIO GRANDE VALLEY SUGAR GROWERS, INC.
Case ID No. 42638
Req. Ent. Reference No. RN100825405
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	8-Dec-2010	6-Oct-2011	0.83	\$21	n/a	\$21
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 to implement measures and procedures designed to ensure deviations are reported. The date required is the date the first report should have been submitted. The final date is the date corrective measures were 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

\$21

Screening Date 16-Sep-2011

Docket No. 2011-1785-AIR-E

PCW

Respondent RIO GRANDE VALLEY SUGAR GROWERS, INC.

Policy Revision 2 (September 2002)

Case ID No. 42638

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100825405

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Violation Number 2

Rule Cite(s)

FOP No. O995, Special Terms and Conditions No. 7, New Source Review Permit Nos. 114 and PSDTX1024, Special Conditions No. 7, 30 Tex. Admin. Code §§ 116.115(c), 116.116(b)(1)(c), and 122.143(4), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the bagasse consumption limit for Boiler Nos. 2 and 4. Specifically, the bagasse consumption limit for Boiler No. 2 is 28 tons per hour ("tph"), however, seven hourly exceedances averaging 28.80 tph were documented from October 13, 2010 to March 17, 2011. In addition, the bagasse consumption limit for Boiler No. 4 is 19 tph, however, 96 hourly exceedances averaging 22.21 tph were documented from October 13, 2010 to March 17, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> 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 did not exceed levels protective of human health or environmental receptors as a result of the violation. The exceedance of the bagasse consumption limit did not result in a documented exceedance of the emission rates for nitrogen oxides or particulate matter.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

103 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two quarterly events are recommended based on documentation of the violation from October 13, 2010 to March 17, 2011.

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 \$405

Violation Final Penalty Total \$7,700

This violation Final Assessed Penalty (adjusted for limits) \$7,700

Economic Benefit Worksheet

Respondent RIO GRANDE VALLEY SUGAR GROWERS, INC.
Case ID No. 42638
Req. Ent. Reference No. RN100825405
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$5,000	13-Oct-2010	26-May-2012	1.62	\$405	n/a	\$405
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a permit amendment application and obtain authorization for increased bagasse consumption for the boilers or an alternative parameter for monitoring and determining emissions. The date required is the date of the earliest exceedance. The final date is the projected compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$405

Compliance History

Customer/Respondent/Owner-Operator:	CN600505630 RIO GRANDE VALLEY SUGAR GROWERS, INC.	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN100825405 RIO GRANDE VALLEY SUGAR GROWERS, INC.	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HN0083G
	AIR OPERATING PERMITS	PERMIT	995
	WASTEWATER	PERMIT	WQ0001752000
	WASTEWATER	EPA ID	TX0032905
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD066447418
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	31721
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	22898
	AIR NEW SOURCE PERMITS	PERMIT	114
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HN0083G
	AIR NEW SOURCE PERMITS	AFS NUM	4821500015
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX1024
	AIR NEW SOURCE PERMITS	REGISTRATION	89602
	WASTEWATER LICENSING	LICENSE	WQ0001752000
	STORMWATER	PERMIT	TXR05O480
	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER	HAT0038
	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER	HAU0135
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HN0083G
Location:	TWO AND A HALF MILES WEST OF SANTA ROSA ON HWY 107 AT FARM-TO-MARKET ROAD 1425, HIDALGO COUNTY		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	September 28, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 28, 2006 to September 28, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Rebecca Johnson	Phone:	(361) 825-3423

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: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

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

Effective Date: 02/22/2010

ADMINORDER 2009-1564-AIR-E

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failure to have the required authorization from TCEQ to conduct a surface coating operation

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110
30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.0518(a)
5C THSC Chapter 382 382.085(b)

Description: Failure to have the required authorization from the TCEQ to conduct a dry abrasive blasting operation

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to identify any other material information that must be included in the certification to comply with Federal Clean Air Act (c)(2), which prohibits knowingly making a false certification or omitting material information under Title 30 of Texas Administrative Code §122.146(4)

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/07/2007	(511210)
2	02/15/2007	(511222)
3	02/15/2007	(511224)
4	11/20/2006	(518597)
5	11/16/2006	(519665)
6	11/16/2006	(519677)
7	11/20/2006	(531681)
8	11/20/2006	(531696)
9	11/21/2006	(531704)
10	11/27/2006	(531762)
11	11/27/2006	(532082)
12	11/27/2006	(532091)
13	01/17/2007	(535151)
14	01/17/2007	(535153)
15	01/17/2007	(535155)
16	01/31/2007	(538416)
17	02/19/2007	(540979)

18 02/27/2007 (542114)
19 02/28/2007 (542531)
20 03/29/2007 (542693)
21 03/29/2007 (542695)
22 03/29/2007 (542698)
23 10/02/2006 (547200)
24 11/02/2006 (547201)
25 12/11/2006 (547202)
26 03/29/2007 (555308)
27 03/29/2007 (555318)
28 03/29/2007 (555321)
29 05/25/2007 (561915)
30 05/30/2007 (562005)
31 05/31/2007 (562317)
32 07/06/2007 (565266)
33 08/18/2007 (572760)
34 02/02/2007 (579735)
35 03/05/2007 (579736)
36 04/13/2007 (579737)
37 05/02/2007 (579738)
38 06/04/2007 (579739)
39 01/03/2007 (579740)
40 11/02/2007 (599016)
41 11/09/2007 (600670)
42 07/13/2007 (602921)
43 08/02/2007 (602922)
44 09/04/2007 (602923)
45 11/30/2007 (609634)
46 11/30/2007 (609635)
47 11/30/2007 (609636)
48 11/30/2007 (609637)

49 01/16/2008 (610399)
50 01/15/2008 (613609)
51 01/15/2008 (613611)
52 01/11/2008 (613769)
53 01/11/2008 (613862)
54 01/18/2008 (614082)
55 01/18/2008 (614159)
56 10/01/2007 (621309)
57 11/02/2007 (621310)
58 12/03/2007 (621311)
59 03/28/2008 (639822)
60 03/28/2008 (639823)
61 03/28/2008 (639824)
62 03/28/2008 (639826)
63 05/02/2008 (640033)
64 05/02/2008 (640034)
65 02/04/2008 (673365)
66 01/04/2008 (673366)
67 04/24/2008 (679824)
68 05/30/2008 (681580)
69 05/30/2008 (681581)
70 05/30/2008 (681582)
71 03/05/2008 (691543)
72 05/07/2008 (691544)
73 05/08/2008 (691545)
74 08/28/2008 (701114)
75 08/27/2008 (701251)
76 08/29/2008 (701274)
77 11/21/2008 (708315)
78 11/21/2008 (708316)

79 11/21/2008 (708317)
80 11/21/2008 (708748)
81 11/21/2008 (708830)
82 11/24/2008 (708910)
83 11/24/2008 (708956)
84 11/24/2008 (708961)
85 11/25/2008 (708995)
86 11/25/2008 (709228)
87 12/23/2008 (709541)
88 06/02/2008 (712492)
89 09/04/2008 (712493)
90 08/06/2008 (712494)
91 01/26/2009 (722957)
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93 01/26/2009 (722960)
94 01/13/2009 (723043)
95 12/09/2008 (728742)
96 09/30/2008 (728743)
97 12/09/2008 (728744)
98 11/03/2008 (728745)
99 12/01/2008 (728746)
100 02/24/2009 (735753)
101 02/24/2009 (735754)
102 02/27/2009 (736863)
103 06/02/2009 (742678)
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105 05/22/2009 (746354)
106 05/22/2009 (746390)
107 05/22/2009 (746392)
108 05/28/2009 (747134)
109 02/04/2009 (751828)

110 01/02/2009 (751829)
111 08/28/2009 (759185)
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114 03/04/2009 (769638)
115 04/02/2009 (769639)
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117 12/02/2009 (777782)
118 11/09/2009 (781477)
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123 11/30/2009 (783112)
124 11/30/2009 (783182)
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126 12/14/2009 (784960)
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128 02/22/2010 (789681)
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132 03/23/2010 (795306)
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134 06/01/2010 (799340)
135 05/28/2010 (801025)
136 05/28/2010 (801028)
137 02/04/2010 (808457)
138 06/01/2009 (808458)
139 07/17/2009 (808459)

140 08/06/2009 (808460)
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142 11/05/2009 (808462)
143 11/04/2009 (808463)
144 12/04/2009 (808464)
145 01/06/2010 (808465)
146 07/08/2010 (827688)
147 08/23/2010 (829744)
148 03/19/2010 (832276)
149 04/07/2010 (832277)
150 05/10/2010 (832278)
151 09/10/2010 (844494)
152 10/01/2010 (844846)
153 10/01/2010 (844855)
154 10/01/2010 (844870)
155 10/01/2010 (844873)
156 08/23/2010 (844893)
157 10/01/2010 (844904)
158 10/01/2010 (844917)
159 06/11/2010 (846700)
160 08/31/2010 (857605)
161 07/06/2010 (861233)
162 01/21/2011 (873183)
163 12/17/2010 (881259)
164 12/20/2010 (881285)
165 11/10/2010 (888454)
166 11/30/2010 (896761)
167 02/25/2011 (899278)
168 02/18/2011 (899528)
169 02/25/2011 (899535)

170 03/21/2011 (900582)
171 03/04/2011 (900637)
172 03/04/2011 (900705)
173 03/04/2011 (900782)
174 03/07/2011 (901500)
175 03/07/2011 (901555)
176 03/11/2011 (901994)
177 03/11/2011 (901995)
178 01/10/2011 (902747)
179 03/21/2011 (905276)
180 02/09/2011 (909578)
181 05/06/2011 (912912)
182 03/09/2011 (916795)
183 06/17/2011 (923209)
184 06/17/2011 (923432)
185 04/13/2011 (926336)
186 08/09/2010 (926337)
187 09/07/2010 (926338)
188 10/11/2010 (926339)
189 06/24/2011 (932735)
190 05/11/2011 (938511)
191 08/30/2011 (943774)
192 06/20/2011 (945879)
193 07/22/2011 (953136)

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

Date: 02/16/2007 (540979)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Description: Failure to maintain its emission limits as stated in the facility's permit. The facility exceeded its maximum allowable annual throughputs on which the emissions of the bagasse boilers are based.

Date: 04/24/2008 (679824)

Self Report? NO

Classification: Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate

Date: 11/20/2009 (777782)

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 335, SubChapter C 335.70(a) 40 CFR Chapter 262, SubChapter I, PT 262, SubPT D 262.40(c)		
Description:	Failure to keep records of any test results, waste analyses, or other determinations made in accordance with §262.11 for at least three years from the		

date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.70(b)
Description: Failure to keep a copy of each annual report and exception report required by this title for a period of at least three years from the due date of the report.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 324, SubChapter A 324.15
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)
Description: Failure to provide response for released oil under Title 40 Code of Federal Regulation §279.22(d) and Title 30 of Texas Administrative Code §324.15.

Date: 02/20/2010 (789681)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0001752000 PERMIT
Description: Failure to accurately measure flow according to the permit requirement.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0001752000 PERMIT
Description: Failure to adequately operate and maintain clarifier in unit that serves outfall 101.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0001752000 PERMIT
Description: Failure to comply with permitted effluent limitations for Total Residual Chlorine maximum limitation of 4.0 milligrams per liter.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
WQ0001752000 PERMIT
Description: Failure to report analytical results of effluent from outfall 101 on Discharge Monitoring Reports.

Date: 02/28/2010 (832276)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2010 (832277)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010 (846700)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2010 (857605)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 116, SubChapter B 116.116(b)(1)(C)
5C THSC Chapter 382 382.085(b)
Description: Failure to comply with all special conditions contained in the permit document. it was documented the maximum hourly consumption (tons), which emission rates are based on and the facilities are limited to, was exceeded on 119 occasions for boiler number 1 (E-1), 110 occasions for boiler number 2 (E-2), and 27 occasion for boiler number 4 (E-4).

Date: 10/31/2010 (888454)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2011 (909578)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2011 (916795)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/18/2011 (901501)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(i)
5C THSC Chapter 382 382.085(b)
Order 94-35 Gen Condition 5 ORDER
Description: Failure to maintain records containing the information and data sufficient to demonstrate compliance with the permit.

Date: 03/31/2011 (926336)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2011 (938511)

Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

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
RIO GRANDE VALLEY SUGAR
GROWERS, INC.
RN100825405**

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§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-1785-AIR-E**

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a sugar cane processing mill located approximately two and a half miles west of Santa Rosa on Highway 107 at Farm-to-Market Road 1425, in Hidalgo County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 6, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fourteen Thousand Nine Hundred Dollars (\$14,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Nine Hundred Twenty Dollars (\$11,920) of the administrative penalty and Two Thousand Nine Hundred Eighty Dollars (\$2,980) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent submitted a deviation report on October 6, 2011. The deviation report detailed the previously unreported deviations that were documented to have occurred during the May 9, 2010 to November 8, 2010 and November 9, 2010 to May 8, 2011 reporting periods. In addition, the Respondent implemented training measures to ensure that deviations are reported as required.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit semi-annual deviation reports for the May 9, 2010 to November 8, 2010 and November 9, 2010 to May 8, 2011 reporting periods, in violation of Federal Operating Permit ("FOP") No. O995, General Terms and Conditions, 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 28, 2011. Specifically, deviations were documented to have occurred during the reporting periods, however, the Respondent failed to submit deviation reports.

2. Failed to comply with the bagasse consumption limit for Boiler Nos. 2 and 4, in violation of FOP No. 0995, Special Terms and Conditions No. 7, New Source Review Permit ("NSRP") Nos. 114 and PSDTX1024, Special Conditions No. 7, 30 TEX. ADMIN. CODE §§ 116.115(c), 116.116(b)(1)(c), and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 28, 2011. Specifically, the bagasse consumption limit for Boiler No. 2 is 28 tons per hour ("tph"), however, seven hourly exceedances averaging 28.80 tph were documented from October 13, 2010 to March 17, 2011. In addition, the bagasse consumption limit for Boiler No. 4 is 19 tph, however, 96 hourly exceedances averaging 22.21 tph were documented from October 13, 2010 to March 17, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: RIO GRANDE VALLEY SUGAR GROWERS, INC., Docket No. 2011-1785-AIR-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit amendment application for the bagasse consumption limits for Boiler Nos. 2 and 4, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- c. Within 180 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with the current bagasse consumption limits in NSRP Nos. 114 and PSDTX1024, or any amended bagasse consumption limit or alternatively authorized parameter for determining and monitoring emissions from Boiler Nos. 2 and 4. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

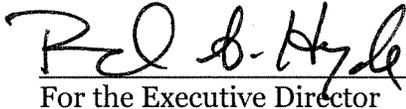
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any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

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

1/11/12

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

11/01/2011

Date

Randy L. Sando

Name (Printed or typed)
Authorized Representative of
RIO GRANDE VALLEY SUGAR GROWERS, INC.

President/CEO

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.