

Executive Summary – Enforcement Matter – Case No. 46686
Red Ewald, Inc.
RN100212612
Docket No. 2013-0801-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Red Ewald, 2669 South Highway 181, Karnes County

Type of Operation:

Fiberglass tank manufacturing site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 18, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$110,055

Amount Deferred for Expedited Settlement: \$22,010

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,645

Total Due to General Revenue: \$85,400

Payment Plan: 35 payments of \$2,440 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 28, 2013

Date(s) of NOE(s): April 4, 2013

**Executive Summary – Enforcement Matter – Case No. 46686
Red Ewald, Inc.
RN100212612
Docket No. 2013-0801-AIR-E**

Violation Information

1. Failed to submit a renewal application at least six months prior to the expiration of Federal Operating Permit No. O-02705 and continued to operate the emissions sources at the Site after the federal operating permit expired on December 29, 2010 [30 TEX. ADMIN. CODE §§ 122.121, 122.133(2), and 122.241(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].
2. Failed to submit semi-annual compliance reports for the January 1, 2006 through December 31, 2012 reporting periods. Specifically, Respondent is subject to 40 CODE OF FEDERAL REGULATIONS (“CFR”) Part 63, Subpart WWWW and should have submitted fourteen semi-annual compliance reports but the reports were never submitted [30 TEX. ADMIN. CODE § 113.1060, TEX. HEALTH & SAFETY CODE § 382.085(b), and 40 CFR § 63.5910(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On May 30, 2013, submitted semi-annual compliance reports for reporting periods January 1, 2012 through December 31, 2012;
- b. On June 3, 2013, submitted an administratively complete federal operating permit application; and
- c. On July 22, 2013, set a system into place to ensure timely submittal of semi-annual compliance reports for all sources.

Technical Requirements:

The Order will require Respondent to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the federal operating permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
- b. Within 365 days, submit written certification that either the federal operating permit to operate the sources of air emissions at the Site has been obtained or operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

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

**Executive Summary – Enforcement Matter – Case No. 46686
Red Ewald, Inc.
RN100212612
Docket No. 2013-0801-AIR-E**

Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Katie Hargrove, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2569; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Mark W. Witte, President, Red Ewald, Inc., P.O. Box 519, Karnes City,
Texas 78118-0519

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Apr-2013	Screening	18-Apr-2013	EPA Due	30-Dec-2013
	PCW	18-Apr-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Red Ewald, Inc.	
Reg. Ent. Ref. No.	RN100212612	
Facility/Site Region	13-San Antonio	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	46686	No. of Violations	2
Docket No.	2013-0801-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katie Hargrove
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$97,500
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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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	\$1,616	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,880	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$97,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.2%	Adjustment	\$1,216
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided costs associated with Violation No. 2.
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Final Penalty Amount	\$98,716
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$98,716
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DEFERRAL	20.0% Reduction	Adjustment	-\$19,743
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$78,973
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Screening Date 18-Apr-2013

Docket No. 2013-0801-AIR-E

PCW

Respondent Red Ewald, Inc.

Policy Revision 2 (September 2002)

Case ID No. 46686

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212612

Media [Statute] Air

Enf. Coordinator Katie Hargrove

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

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 18-Apr-2013
Respondent Red Ewald, Inc.
Case ID No. 46686

Docket No. 2013-0801-AIR-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212612

Media [Statute] Air

Enf. Coordinator Katie Hargrove

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.121, 122.133(2), and 122.241(b) and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description

Failed to submit a renewal application at least six months prior to the expiration of Federal Operating Permit No. O-02705 and continued to operate the emission sources at the Site after the federal operating permit expired on December 29, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 28 Number of violation days 841

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$70,000

Twenty-eight monthly events are recommended based on the December 29, 2010 permit expiration date to the April 18, 2013 screening date.

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 \$70,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$400

Violation Final Penalty Total \$70,873

This violation Final Assessed Penalty (adjusted for limits) \$70,873

Economic Benefit Worksheet

Respondent Red Ewald, Inc.
Case ID No. 46686
Reg. Ent. Reference No. RN100212612
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,000	29-Dec-2010	29-Dec-2014	4.00	\$400	n/a	\$400
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete and submit a permit application. The Date Required is the date Federal Operating Permit No. O-02705 expired. The Final Date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000
TOTAL
\$400

Screening Date 18-Apr-2013

Docket No. 2013-0801-AIR-E

PCW

Respondent Red Ewald, Inc.

Policy Revision 2 (September 2002)

Case ID No. 46686

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100212612

Media [Statute] Air

Enf. Coordinator Katie Hargrove

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 113.1060, Tex. Health & Safety Code § 382.085(b) and 40 Code of Federal Regulations ("CFR") § 63.5910(a) and (b)

Violation Description

Failed to submit semi-annual compliance reports for the January 1, 2006 through June 30, 2011 reporting periods. Specifically, the Respondent is subject to 40 CFR Part 63, Subpart WWWW and should have submitted eleven semi-annual compliance reports but the reports were never submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 11 2006 Number of violation days

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

Violation Base Penalty \$27,500

Eleven single events are recommended (one for each semi-annual compliance report).

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 \$27,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,216

Violation Final Penalty Total \$27,843

This violation Final Assessed Penalty (adjusted for limits) \$27,843

Economic Benefit Worksheet

Respondent Red Ewald, Inc.
Case ID No. 46686
Reg. Ent. Reference No. RN100212612
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$880	31-Jul-2006	18-Apr-2013	7.64	\$336	\$880	\$1,216

Notes for AVOIDED costs

Estimated avoided cost for submitting semi-annual compliance reports (eleven missed semi-annual compliance reports at \$80 per report). The Date Required is the date when the first report was due. The Final Date is the screening date.

Approx. Cost of Compliance \$880

TOTAL \$1,216



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	8-Apr-2013	Screening	18-Apr-2013	EPA Due	30-Dec-2013
	PCW	26-Jul-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Red Ewald, Inc.		
Reg. Ent. Ref. No.	RN100212612		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	46686	No. of Violations	1
Docket No.	2013-0801-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katie Hargrove
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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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	\$199	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,580	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.8%	Adjustment	\$89
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost associated with the violation.
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Final Penalty Amount	\$11,339
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,339
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,267
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$9,072
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Screening Date 18-Apr-2013

Docket No. 2013-0801-AIR-E

PCW

Respondent Red Ewald, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46686

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100212612

Media [Statute] Air

Enf. Coordinator Katie Hargrove

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 18-Apr-2013
Respondent Red Ewald, Inc.
Case ID No. 46686

Docket No. 2013-0801-AIR-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100212612
Media [Statute] Air
Enf. Coordinator Katie Hargrove
Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 113.1060, Tex. Health & Safety Code § 382.085(b) and 40 Code of Federal Regulations ("CFR") § 63.5910(a) and (b)

Violation Description Failed to submit semi-annual compliance reports for the July 1, 2011 through December 31, 2012 reporting periods. Specifically, the Respondent is subject to 40 CFR Part 63, Subpart WWWW and should have submitted three semi-annual compliance reports but the reports were never submitted.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			15.0%
	100% of the rule requirement was not met.				

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 549 Number of violation days

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

Violation Base Penalty \$11,250

Three single events are recommended (one for each semi-annual compliance report).

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 \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$162

Violation Final Penalty Total \$11,339

This violation Final Assessed Penalty (adjusted for limits) \$11,339

Economic Benefit Worksheet

Respondent Red Ewald, Inc.
Case ID No. 46686
Reg. Ent. Reference No. RN100212612
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
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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	\$1,500	31-Jul-2012	22-Jul-2013	0.98	\$73	n/a	\$73
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 costs to implement measures designed to ensure the submittal of timely and accurate semi-annual compliance reports. The Date Required is the date the second semi-annual compliance report should have been submitted. The Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$80	31-Jan-2012	18-Apr-2013	2.13	\$9	\$80	\$89

Notes for AVOIDED costs

Estimated avoided cost for submitting semi-annual compliance reports (one missed semi-annual compliance report at \$80 per report). The Date Required is the date when the report was due. The Final Date is the screening date.

Approx. Cost of Compliance	\$1,580	TOTAL	\$162
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The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600126270, RN100212612, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600126270, Red Ewald, Inc. **Classification:** SATISFACTORY **Rating:** 1.88

Regulated Entity: RN100212612, RED EWALD **Classification:** SATISFACTORY **Rating:** 1.88

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 2669 SOUTH HIGHWAY 181, KARNES COUNTY , TX, 78118

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER KA0018C

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD041469990

AIR NEW SOURCE PERMITS PERMIT 17945

AIR NEW SOURCE PERMITS AFS NUM 4825500011

POLLUTION PREVENTION PLANNING ID NUMBER

P00565

AIR OPERATING PERMITS PERMIT 2705

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 32906

AIR NEW SOURCE PERMITS ACCOUNT NUMBER KA0018C

AIR EMISSIONS INVENTORY ACCOUNT NUMBER KA0018C

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: April 10, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 10, 2008 to April 10, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Katie Hargrove

Phone: (512) 239-2569

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

Item 1	March 17, 2009	(738423)
Item 2	January 28, 2010	(789478)
Item 3	May 27, 2011	(915697)

Item 4	April 24, 2012	(989980)
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E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

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
RED EWALD, INC.
RN100212612**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-0801-AIR-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Red Ewald, Inc. ("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 together stipulate that:

1. The Respondent owns and operates a fiberglass tank manufacturing site at 2669 South Highway 181, Karnes County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director 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 April 9, 2013.
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 One Hundred Ten Thousand Fifty-Five Dollars (\$110,055) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Six Hundred and Forty-Five Dollars (\$2,645) of the administrative penalty and Twenty-Two Thousand

Ten Dollars (\$22,010) 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.

The remaining amount of Eighty-Five Thousand Four Hundred Dollars (\$85,400) of the administrative penalty shall be payable in thirty-five monthly payments of Two Thousand Four Hundred Forty Dollars (\$2,440) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payments requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which the event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On May 30, 2013, submitted semi-annual compliance reports for reporting periods January 1, 2012 through December 31, 2012, for all sources subject to 40 CODE OF FEDERAL REGULATIONS ("CFR") Part 63, Subpart WWWW to the TCEQ San Antonio Regional Office;
 - b. On June 3, 2013, submitted an administratively complete federal operating permit application; and
 - c. On July 22, 2013, set a system into place to ensure timely submittal of semi-annual compliance reports for all sources subject to 40 CFR Part 63, Subpart WWWW.
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 Site, the Respondent is alleged to have:

1. Failed to submit a renewal application at least six months prior to the expiration of Federal Operating Permit No. O-02705 and continued to operate the emissions sources at the Site after the federal operating permit expired on December 29, 2010, in violation of 30 TEX. ADMIN. CODE §§ 122.121, 122.133(2), and 122.241(b) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during an investigation conducted on February 28, 2013.
2. Failed to submit semi-annual compliance reports for the January 1, 2006 through December 31, 2012 reporting periods, in violation of 30 TEX. ADMIN. CODE § 113.1060, TEX. HEALTH & SAFETY CODE § 382.085(b), and 40 CFR § 63.5910(a) and (b), as documented during an investigation conducted on February 28, 2013. Specifically, the Respondent is subject to 40 CFR Part 63, Subpart WWWW and should have submitted fourteen semi-annual compliance reports but the reports were never submitted.

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: Red Ewald, Inc., Docket No. 2013-0801-AIR-E" to:

Financial Administration Division, Revenue Operations 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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the federal operating permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - b. Within 365 days after the effective date of this Agreed Order, submit written certification that either the federal operating permit to operate the sources of air emissions at the Site has been obtained or operation has ceased until such time that appropriate authorization is obtained. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 Site 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/8/12

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

08/28/2013

Date

Mark W. Witte

Name (Printed or typed)

President

Title

Authorized Representative of
Red Ewald, Inc.

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