Executive Summary – Enforcement Matter – Case No. 47029
Western Gulf Terminal Partners, LP
RN104025325
Docket No. 2013-1123-IHW-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
IHW
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Western Gulf Terminal Partners, 7002 Marvin L. Berry Road, Corpus Christi, Nueces County
Type of Operation:
Marine vessel and barge cleaning facility
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: October 25, 2013
Comments Received: No

Penalty Information

Total Penalty Assessed: $100,125
Amount Deferred for Expedited Settlement: $20,025
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $3,100
Total Due to General Revenue: $77,000
Payment Plan: 35 payments of $2,200 each
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - High
Site/RN - High
Major Source: No
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: March 28, 2013
Date(s) of NOE(s): May 31, 2013

Executive Summary – Enforcement Matter – Case No. 47029
Western Gulf Terminal Partners, LP
RN104025325
Docket No. 2013-1123-IHW-E

Violation Information

1. Failed to conduct hazardous waste determinations and classifications and maintain the required documentation. Specifically, Respondent did not maintain the date of initial generation and description of the process that generates the rust and scale, and did not conduct waste determinations and classifications on the rust and scale removed from the vessels during cleaning operations [30 TEX. ADMIN. CODE §§ 335.503(a) and 335.513 and 40 CODE OF FEDERAL REGULATIONS § 262.11].

2. Failed to correctly manifest Class 1 waste utilizing a completed Uniform Waste Manifest form. Specifically, 26 shipments of wash water and bilge water, rust and scale, oily water, oily absorbents, and soils generated through spill clean up were shipped without a Uniform Waste Manifest form between February 23, 2011 and February 17, 2013 [30 TEX. ADMIN. CODE § 335.10(a)].

3. Failed to prevent the disposal of Class 1 waste at an unauthorized facility. Specifically, approximately 3,042 barrels of wash water and/or bilge water, nonhazardous industrial Class 1 waste, were disposed of in unauthorized disposal wells at various locations [30 TEX. ADMIN. CODE § 335.2(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

a. Immediately, cease disposing of any additional nonhazardous industrial Class 1 waste at unauthorized facilities.

b. Within 30 days:

i. Begin conducting hazardous waste determinations for all rust and scale removed from the vessels during cleaning operations;

ii. Begin maintaining the date of initial generation and description of the process that generates IHW waste;

iii. Begin maintaining waste manifests for shipments of IHW waste; and

iv. Develop and implement procedures to prevent the disposal of solid waste at unauthorized facilities.

c. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a. through b.iv.

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: Danielle Porras, Enforcement Division, Enforcement Team 7, MC R-12, (713) 767-3682; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Kent Osborn, Vice President & Chief Financial Officer, Western Gulf Terminal Partners, LP, P.O. Box 9605, Corpus Christi, Texas 78469-9605
Daniel J. Murphy, Member, Western Gulf Terminal Partners, LP, P.O. Box 9605, Corpus Christi, Texas 78469-9605
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	3-Jun-2013				
PCW	13-Jun-2013	Screening	10-Jun-2013	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Western Gulf Terminal Partners, LP		
Reg. Ent. Ref. No.	RN104025325		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47029	No. of Violations	1
Docket No.	2013-1123-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -10.0% Reduction — *Subtotals 2, 3, & 7* **-$250**

Notes: Reduction due to high performer classification.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$0**

Economic Benefit — 0.0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts $0
Approx. Cost of Compliance $0

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$2,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$2,250**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$2,250**

DEFERRAL 20.0% Reduction — *Adjustment* **-$450**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$1,800**

Screening Date 10-Jun-2013 **Docket No.** 2013-1123-IHW-E

PCW

Respondent Western Gulf Terminal Partners, LP

Policy Revision 2 (September 2002)

Case ID No. 47029

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104025325

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

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

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 10-Jun-2013 **Docket No.** 2013-1123-IHW-E **PCW**

Respondent Western Gulf Terminal Partners, LP *Policy Revision 2 (September 2002)*

Case ID No. 47029 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN104025325

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.10(a)

Violation Description Failed to correctly manifest Class 1 waste utilizing a completed Uniform Waste Manifest form. Specifically, approximately one shipment of wash water and bilge water, rust and scale, oily water, oily absorbents, and soils generated through spill clean up was shipped without a Uniform Waste Manifest form on February 23, 2011.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 — 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single 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

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $2,250

This violation Final Assessed Penalty (adjusted for limits) $2,250

Economic Benefit Worksheet

Respondent Western Gulf Terminal Partners, LP
Case ID No. 47029
Reg. Ent. Reference No. RN104025325
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	See economic benefit for violation no. 2 in accompanying Penalty Calculation Worksheet.						
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 $0

TOTAL $0

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	3-Jun-2013				
PCW	21-Jun-2013	Screening	10-Jun-2013	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Western Gulf Terminal Partners, LP		
Reg. Ent. Ref. No.	RN104025325		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47029	No. of Violations	3
Docket No.	2013-1123-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7

Admin. Penalty $ Limit Minimum $0 Maximum $25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$108,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -10.0% Reduction — *Subtotals 2, 3, & 7* **-$10,875**

Notes: Reduction due to high performer classification.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$0**

Economic Benefit — 0.0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts $660
Approx. Cost of Compliance $10,900

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$97,875**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$97,875**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$97,875**

DEFERRAL 20.0% Reduction — *Adjustment* **-$19,575**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$78,300**

Screening Date 10-Jun-2013 **Docket No.** 2013-1123-IHW-E

PCW

Respondent Western Gulf Terminal Partners, LP

Policy Revision 3 (September 2011)

Case ID No. 47029

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104025325

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

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

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction due to high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** -10%

Screening Date 10-Jun-2013 **Docket No.** 2013-1123-IHW-E **PCW**

Respondent Western Gulf Terminal Partners, LP *Policy Revision 3 (September 2011)*

Case ID No. 47029 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN104025325

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.503(a) and 335.513 and 40 Code of Federal Regulations § 262.11

Violation Description Failed to conduct hazardous waste determinations and classifications and maintain the required documentation. Specifically, the Respondent did not maintain the date of initial generation and description of the process that generates the rust and scale, and did not conduct waste determinations and classifications on the rust and scale removed from the vessels during cleaning operations.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events 2 | 2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $7,500

Two events (one per each waste stream) are 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 $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $388

Statutory Limit Test

Violation Final Penalty Total $6,750

This violation Final Assessed Penalty (adjusted for limits) $6,750

Economic Benefit Worksheet

Respondent Western Gulf Terminal Partners, LP
Case ID No. 47029
Reg. Ent. Reference No. RN104025325
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$8,400	28-Mar-2013	28-Feb-2014	0.92	$388	n/a	$388

Notes for DELAYED costs: Estimated cost to conduct waste determinations and classifications on two waste streams. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs (ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs))							
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $8,400

TOTAL $388

Screening Date 10-Jun-2013 **Docket No.** 2013-1123-IHW-E **PCW**

Respondent Western Gulf Terminal Partners, LP *Policy Revision 3 (September 2011)*

Case ID No. 47029 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN104025325

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.10(a)

Violation Description Failed to correctly manifest Class 1 waste utilizing a completed Uniform Waste Manifest form. Specifically, 25 shipments of wash water and bilge water, rust and scale, oily water, oily absorbents, and soils generated through spill clean up were shipped without a Uniform Waste Manifest form between December 20, 2011 and February 17, 2013.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events 25 | 25 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $93,750

Twenty-Five single events are recommended (one for each unauthorized shipment).

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 $93,750

Economic Benefit (EB) for this violation

Estimated EB Amount $226

Statutory Limit Test

Violation Final Penalty Total $84,375

This violation Final Assessed Penalty (adjusted for limits) $84,375

Economic Benefit Worksheet

Respondent Western Gulf Terminal Partners, LP
Case ID No. 47029
Req. Ent. Reference No. RN104025325
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$1,000	23-Feb-2011	28-Feb-2014	3.02	$151	n/a	$151
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	23-Feb-2011	28-Feb-2014	3.02	$75	n/a	$75
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 DELAYED costs: Estimated cost to ensure proper manifests accompany all shipments of hazardous wastes ($500) and estimated cost to develop and implement standard operating procedures to prevent disposal of IHW at unauthorized facilities ($1,000). The Date Required is the first date of disposal, and the Final Date is the estimated date of compliance.

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,500

TOTAL $226

Screening Date 10-Jun-2013 **Docket No.** 2013-1123-IHW-E **PCW**

Respondent Western Gulf Terminal Partners, LP *Policy Revision 3 (September 2011)*

Case ID No. 47029 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN104025325

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.2(b)

Violation Description Failed to prevent the disposal of Class 1 waste at an unauthorized facility. Specifically, approximately 3,042 barrels of wash water and/or bilge water, nonhazardous industrial Class 1 waste, were disposed of in unauthorized disposal wells at various locations.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events 6 | 500 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $7,500

Six quarterly events are recommended based on the first documented disposal on January 27, 2012 to the screening date of June 10, 2013.

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

Estimated EB Amount $46

Statutory Limit Test

Violation Final Penalty Total $6,750

This violation Final Assessed Penalty (adjusted for limits) $6,750

Economic Benefit Worksheet

Respondent Western Gulf Terminal Partners, LP
Case ID No. 47029
Reg. Ent. Reference No. RN104025325
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling	$1,000	27-Jan-2012	28-Feb-2014	2.09	$105	n/a	$105
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 develop standard operating procedures which are to be followed by employees in the disposal of waste. The Date Required is the first date of disposal, and the Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $1,000

TOTAL $105

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.

Compliance History Report

PUBLISHED Compliance History Report for CN603635897, RN104025325, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603635897, Western Gulf Terminal Partners, LP	**Classification:** HIGH	**Rating:** 0.00
Regulated Entity:	RN104025325, Western Gulf Terminal Partners	**Classification:** HIGH	**Rating:** 0.00
Complexity Points:	3	**Repeat Violator:** NO	
CH Group:	14 - Other		
Location:	7002 MARVIN L BERRY RD CORPUS CHRISTI, TX 78409-2818, NUECES COUNTY		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		

ID Number(s):

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 87367
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000057372
MUNICIPAL SOLID WASTE PROCESSING PERMIT 100037
AIR NEW SOURCE PERMITS PERMIT 93174
POLLUTION PREVENTION PLANNING ID NUMBER P08198

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

Date Compliance History Report Prepared: June 10, 2013

Agency Decision Requiring Compliance History: Enforcement

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

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

Name: Danielle Porras **Phone** (713) 767-3682

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 July 16, 2008 (683311)

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
WESTERN GULF TERMINAL	§	
PARTNERS, LP	§	
RN104025325	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2013-1123-IHW-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 Western Gulf Terminal Partners, LP ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Ms. Lori Warner of the law firm of Jackson Golmour & Dobbs PC, together stipulate that:

1. The Respondent operates a marine vessel and barge cleaning facility at 7002 Marvin L. Berry Road in Corpus Christi, Nueces County, Texas (the "Facility").

2. The Facility involves or involved the management of industrial hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.

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 June 5, 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 Thousand One Hundred Twenty-Five Dollars ($100,125) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand One Hundred Dollars ($3,100) of the administrative penalty and Twenty Thousand Twenty-Five Dollars ($20,025) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seventy-Seven Thousand Dollars ($77,000) of the administrative penalty shall be payable in 35 monthly payments of Two Thousand Two Hundred Dollars ($2,200) each. The next monthly payment 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 payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, 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 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.

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

As operator of the Facility, the Respondent is alleged to have:

1. Failed to conduct hazardous waste determinations and classifications and maintain the required documentation, in violation of 30 TEX. ADMIN. CODE §§ 335.503(a) and 335.513 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11, as documented during an investigation conducted on March 28, 2013. Specifically, the Respondent did not maintain the date of initial generation and description of the process that generates the

rust and scale, and did not conduct waste determinations and classifications on the rust and scale removed from the vessels during cleaning operations.

2. Failed to correctly manifest Class 1 waste utilizing a completed Uniform Waste Manifest form, in violation of 30 TEX. ADMIN. CODE § 335.10(a), as documented during an investigation conducted on March 28, 2013. Specifically, 26 shipments of wash water and bilge water, rust and scale, oily water, oily absorbents, and soils generated through spill clean up were shipped without a Uniform Waste Manifest form between February 23, 2011 and February 17, 2013.

3. Failed to prevent the disposal of Class 1 waste at an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on March 28, 2013. Specifically, approximately 3,042 barrels of wash water and/or bilge water, nonhazardous industrial Class 1 waste, were disposed of in unauthorized disposal wells at various locations.

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: Western Gulf Terminal Partners, LP, Docket No. 2013-1123-IHW-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. Immediately upon the effective date of this Agreed Order, cease disposing of any additional nonhazardous industrial Class 1 waste at unauthorized facilities.

   b. Within 30 days after the effective date of this Agreed Order:

      i. Begin conducting hazardous waste determinations for all rust and scale removed from the vessels during cleaning operations, in accordance with 30 TEX. ADMIN. CODE § 335.503 and 40 CFR § 262.11;

ii. Begin maintaining the date of initial generation and description of the process that generates IHW waste, in accordance with 30 TEX. ADMIN. CODE § 335.503 and 40 CFR § 262.11;

iii. Begin maintaining waste manifests for shipments of IHW waste, in accordance with 30 TEX. ADMIN. CODE § 335.10; and

iv. Develop and implement procedures to prevent the disposal of solid waste at unauthorized facilities.

c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iv. 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:

Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 12/16/13
For the Executive Director 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.

_____ Sept. 12, 2013
Signature Date

Kent Osborn V.P. / CFO
Name (Printed or typed) Title
Authorized Representative of
Western Gulf Terminal Partners, LP

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.