

Executive Summary – Enforcement Matter – Case No. 49969
TEXAS PACIFICO TRANSPORTATION, LTD.
RN102923489
Docket No. 2015-0117-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - MSW, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Texas Pacifico, 2200 East 28th Street, San Angelo, Tom Green County

Type of Operation:

Railroad yard

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: May 29, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$31,365

Amount Deferred for Expedited Settlement: \$6,273

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,091

Total Due to General Revenue: \$23,001

Payment Plan: 11 payments of \$2,091 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49969
TEXAS PACIFICO TRANSPORTATION, LTD.
RN102923489
Docket No. 2015-0117-MLM-E

Investigation Information

Complaint Date(s): September 26, 2014

Complaint Information: Alleged the Respondent was disposing of water contaminated with used oil.

Date(s) of Investigation: October 29, 2014

Date(s) of NOE(s): December 19, 2014

Violation Information

1. Failed to obtain authorization under a Texas Pollutant Discharge Elimination System ("TPDES") General Permit ("GP") to discharge storm water associated with industrial activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(c)].

2. Failed to have a valid registration with the TCEQ prior to storing used oil filters [30 TEX. ADMIN. CODE § 328.24(b)].

3. Failed to prevent the discharge of waste into or adjacent to any water in the state. Specifically, the Respondent failed to prevent the discharge of wastewater from the washing of equipment at the Facility. Furthermore, there were discharges of petroleum products around the oil/wastewater storage tank containment system and around the fueling and washing bays of the Facility [30 TEX. ADMIN. CODE § 330.15(a) and TEX. WATER CODE § 26.121(a)(1)].

4. Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not performed for the drums, large batteries, metal units, and used air filters at the Facility [30 TEX. ADMIN. CODE §§ 335.62, 335.504, and 335.513 and 40 CFR § 262.11].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Immediately, cease disposing of any additional unauthorized waste, wastewater, and/or petroleum products at the Facility.

b. Within 30 days:

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TEXAS PACIFICO TRANSPORTATION, LTD.
RN102923489
Docket No. 2015-0117-MLM-E

- i. Conduct waste determinations and waste classifications on all waste streams generated at the Facility;
 - ii. Submit a properly completed used oil filter registration form;
 - iii. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES GP No. TXR050000; and
 - iv. Submit a Notice of Intent and associated fees.
- c. Within 45 days, submit a report, which includes a summary of remediation activities that took place, confirming that all contaminated soil at the Facility has been properly remediated. Remediation activities will address all areas where soil has been contaminated with used oil and fuel at the Facility. The report shall include analytical results of soil confirmation sampling which characterizes the effectiveness of contaminated soil removal in all contaminated areas and documentation that contaminated soil has been disposed of at an authorized facility.
- d. Within 60 days, submit written certification to demonstrate compliance with a. through c.

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: Keith Frank, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1203; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Federico Diaz Page, Executive Vice President, TEXAS PACIFICO TRANSPORTATION, LTD., 106 South Chadbourne Street, San Angelo, Texas 76903-6402
Elizabeth Grindstaff, Director, TEXAS PACIFICO TRANSPORTATION, LTD., 106 South Chadbourne Street, San Angelo, Texas 76903-6402
Respondent's Attorney: Jeffrey S. Lisson, Carter, Boyd, Lisson, & Hohensee, P.C., 515 West Harris Avenue, Suite 100, San Angelo, Texas 7690



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 5-Jan-2015 | Screening | 9-Jan-2015 | EPA Due | |
| | PCW | 29-Jan-2015 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|-------------------------------------|---------------------------|-------|
| Respondent | TEXAS PACIFICO TRANSPORTATION, LTD. | | |
| Reg. Ent. Ref. No. | RN102923489 | | |
| Facility/Site Region | 8-San Angelo | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|---|------------------------------|--------------------|
| Enf./Case ID No. | 49969 | No. of Violations | 1 |
| Docket No. | 2015-0117-MLM-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | Municipal Solid Waste & Used Oil Filter | Enf. Coordinator | Keith Frank |
| | | EC's Team | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$3,750 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------|--------------------------------|-------------|
| Compliance History | 2.0% Enhancement | Subtotals 2, 3, & 7 | \$75 |
|---------------------------|------------------|--------------------------------|-------------|

Notes: Enhancement for one NOV with dissimilar violations.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| 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 | \$232 |
| Estimated Cost of Compliance | \$5,000 |

*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$3,825 |
|-----------------------------|-----------------------|----------------|

| | | | |
|---|------|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$3,825 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$3,825 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|-----------------|-------------------|---------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$765 |
|-----------------|-----------------|-------------------|---------------|

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 | \$3,060 |
|------------------------|----------------|

Screening Date 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Water Quality

Enf. Coordinator Keith Frank

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 | 1 | 2% |
| 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 judgments 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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 2%

Screening Date 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Water Quality

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization under a Texas Pollutant Discharge Elimination System ("TPDES") General Permit ("GP") to discharge storm water associated with industrial activities.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | x | | |

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

72 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$3,750

Three monthly events are recommended based on documentation of the violation from the October 29, 2014 investigation date to the January 9, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$232

Violation Final Penalty Total \$3,825

This violation Final Assessed Penalty (adjusted for limits) \$3,825

Economic Benefit Worksheet

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Case ID No. 49969

Reg. Ent. Reference No. RN102923489

Media Water Quality

Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | \$5,000 | 29-Oct-2014 | 2-Oct-2015 | 0.93 | \$232 | n/a | \$232 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to develop and implement a storm water pollution prevention plan; submit a Notice of Intent and the associated fees; and to obtain authorization to discharge storm water under TPDES GP No. TXR050000. Date Required is the investigation date. 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

\$5,000

TOTAL

\$232



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

| | | | | | | |
|--------------|----------|-------------|-----------|------------|---------|--|
| DATES | Assigned | 5-Jan-2015 | Screening | 9-Jan-2015 | EPA Due | |
| | PCW | 29-Jan-2015 | | | | |

| | | | |
|--|-------------------------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | TEXAS PACIFICO TRANSPORTATION, LTD. | | |
| Reg. Ent. Ref. No. | RN102923489 | | |
| Facility/Site Region | 8-San Angelo | Major/Minor Source | Minor |

| | | | |
|---------------------------------|---------------------------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 49969 | No. of Violations | 1 |
| Docket No. | 2015-0117-MLM-E | Order Type | 1660 |
| Media Program(s) | Used Oil Filter | Government/Non-Profit | No |
| Multi-Media | Municipal Solid Waste & Water Quality | Enf. Coordinator | Keith Frank |
| | | EC's Team | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$5,000 |

Penalty Calculation Section

| | | |
|---|-------------------|--------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$750 |
|---|-------------------|--------------|

| | | |
|--|--|--|
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | |
| Compliance History | 2.0% Enhancement | Subtotals 2, 3, & 7 \$15 |

Notes: Enhancement for one NOV with dissimilar violations.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| 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: \$5
 Estimated Cost of Compliance: \$100
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|--------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$765 |
|-----------------------------|-----------------------|--------------|

| | | | |
|---|------|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|--------------|
| Final Penalty Amount | \$765 |
|-----------------------------|--------------|

| | | |
|-----------------------------------|-------------------------------|--------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$765 |
|-----------------------------------|-------------------------------|--------------|

| | | | |
|-----------------|-----------------|-------------------|---------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$153 |
|-----------------|-----------------|-------------------|---------------|

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 | \$612 |
|------------------------|--------------|

Screening Date 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Used Oil Filter

Enf. Coordinator Keith Frank

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 | 1 | 2% |
| 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 judgments 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

Enhancement for one NOV with dissimilar violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Used Oil Filter

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.24(b)

Violation Description Failed to have a valid registration with the TCEQ prior to storing used oil filters.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%)

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%)

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 72

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

Violation Base Penalty \$750

Three monthly events are recommended based on documentation of the violation from the October 29, 2014 investigation date to the January 9, 2015 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$765

This violation Final Assessed Penalty (adjusted for limits) \$765

Economic Benefit Worksheet

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.
Case ID No. 49969
Reg. Ent. Reference No. RN102923489
Media Used Oil Filter
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

| 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 | \$100 | 29-Oct-2014 | 2-Oct-2015 | 0.93 | \$5 | n/a | \$5 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to prepare and submit a used oil filter registration form. Date Required is the investigation date. 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 | \$100 | TOTAL | \$5 |
|-----------------------------------|-------|--------------|-----|



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 5-Jan-2015 | Screening | 9-Jan-2015 | EPA Due | |
| | PCW | 24-Apr-2015 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|-------------------------------------|---------------------------|-------|--|--|
| Respondent | TEXAS PACIFICO TRANSPORTATION, LTD. | | | | |
| Reg. Ent. Ref. No. | RN102923489 | | | | |
| Facility/Site Region | 8-San Angelo | Major/Minor Source | Minor | | |

CASE INFORMATION

| | | | |
|--|---------------------------------|------------------------------|--------------------|
| Enf./Case ID No. | 49969 | No. of Violations | 3 |
| Docket No. | 2015-0117-MLM-E | Order Type | 1660 |
| Media Program(s) | Municipal Solid Waste | Government/Non-Profit | No |
| Multi-Media | Water Quality & Used Oil Filter | Enf. Coordinator | Keith Frank |
| | | EC's Team | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

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 | \$1,935 |
| Estimated Cost of Compliance | \$41,800 |

*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 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

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 | 1 | 2% |
| 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 judgments 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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 2%

Screening Date 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a) and Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent the discharge of waste into or adjacent to any water in the state. Specifically, the Respondent failed to prevent the discharge of wastewater from the washing of equipment at the Facility. Furthermore, there were discharges of petroleum products around the oil/wastewater storage tank containment system and around the fueling and washing bays of the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 5.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do 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 1

72 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation from the October 29, 2014 investigation to the January 9, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

| | Before NOE/NOV | NOE/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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,158

Violation Final Penalty Total \$1,275

This violation Final Assessed Penalty (adjusted for limits) \$1,275

Economic Benefit Worksheet

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Case ID No. 49969

Reg. Ent. Reference No. RN102923489

Media Municipal Solid Waste

Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| 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 | \$25,000 | 29-Oct-2014 | 2-Oct-2015 | 0.93 | \$1,158 | n/a | \$1,158 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to remove all contaminated soils from the Facility and dispose of them at an authorized facility. Date Required is the investigation date. 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

\$25,000

TOTAL

\$1,158

Screening Date 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.504, and 335.513 and 40 Code of Federal Regulations § 262.11

Violation Description

Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not performed for the drums and large batteries at the Facility.

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 that 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 6

72 Number of violation days

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

Violation Base Penalty \$22,500

Six monthly events (three monthly events for each waste stream) are recommended based on documentation of the violation from the October 29, 2014 investigation to the January 9, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

| | Before NOE/NOV | NOE/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 \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$389

Violation Final Penalty Total \$22,950

This violation Final Assessed Penalty (adjusted for limits) \$22,950

Economic Benefit Worksheet

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.
Case ID No. 49969
Reg. Ent. Reference No. RN102923489
Media Municipal Solid Waste
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 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 | 29-Oct-2014 | 2-Oct-2015 | 0.93 | \$389 | n/a | \$389 |

Notes for DELAYED costs

Estimated cost to conduct waste determinations and waste classifications. Date Required is the investigation date. 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

\$389

Screening Date 9-Jan-2015

Docket No. 2015-0117-MLM-E

PCW

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.

Policy Revision 4 (April 2014)

Case ID No. 49969

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102923489

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.504, and 335.513 and 40 Code of Federal Regulations § 262.11

Violation Description

Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not performed for the metal units and used air filters at the Facility.

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 that 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 2

72 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$2,500

Two quarterly events (one for each waste stream) are recommended based on documentation of the violation from the October 29, 2014 investigation to the January 9, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$389

Violation Final Penalty Total \$2,550

This violation Final Assessed Penalty (adjusted for limits) \$2,550

Economic Benefit Worksheet

Respondent TEXAS PACIFICO TRANSPORTATION, LTD.
Case ID No. 49969
Reg. Ent. Reference No. RN102923489
Media Municipal Solid Waste
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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) | \$8,400 | 29-Oct-2014 | 2-Oct-2015 | 0.93 | \$389 | n/a | \$389 |

Notes for DELAYED costs

Estimated cost to conduct waste determinations and waste classifications. Date Required is the investigation date. 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

\$389

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 CN601482912, RN102923489, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN601482912, TEXAS PACIFICO TRANSPORTATION, LTD. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN102923489, Texas Pacifico **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 2200 E 28TH ST SAN ANGELO, TX 76903-6202, TOM GREEN COUNTY

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 66494

INDUSTRIAL AND HAZARDOUS WASTE
NONPERMITTED ID NUMBER F1534

INDUSTRIAL AND HAZARDOUS WASTE
NONPERMITTED EPA ID TXD988064804

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: January 09, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 09, 2010 to January 09, 2015

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

Name: Keith Frank

Phone: (512) 239-1203

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.):

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS PACIFICO
TRANSPORTATION, LTD.
RN102923489

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2015-0117-MLM-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 TEXAS PACIFICO TRANSPORTATION, LTD. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Jeffrey S. Lisson of the law firm of Carter, Boyd, Lisson & Hohensee, P.C., together stipulate that:

1. The Respondent operates a railroad yard at 2200 East 28th Street in San Angelo, Tom Green County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5). The Facility involves or involved the management of municipal solid waste and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
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 December 24, 2014.
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 Thirty-One Thousand Three Hundred Sixty-Five Dollars (\$31,365) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Ninety-One Dollars (\$2,091) of the administrative penalty and Six Thousand Two Hundred Seventy-Three Dollars (\$6,273) 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, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty-Three Thousand One Dollars (\$23,001) of the administrative penalty shall be payable in 11 monthly payments of Two Thousand Ninety-One Dollars (\$2,091) 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 obtain authorization under a Texas Pollutant Discharge Elimination System ("TPDES") General Permit ("GP") to discharge storm water associated with industrial

activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(c), as documented during an investigation conducted on October 29, 2014.

2. Failed to have a valid registration with the TCEQ prior to storing used oil filters, in violation of 30 TEX. ADMIN. CODE § 328.24(b), as documented during an investigation conducted on October 29, 2014.
3. Failed to prevent the discharge of waste into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on October 29, 2014. Specifically, the Respondent failed to prevent the discharge of wastewater from the washing of equipment at the Facility. Furthermore, there were discharges of petroleum products around the oil/wastewater storage tank containment system and around the fueling and washing bays of the Facility.
4. Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.504, and 335.513 and 40 CFR § 262.11, as documented during an investigation conducted on October 29, 2014. Specifically, hazardous waste determinations and waste classifications were not performed for the drums, large batteries, metal units, and used air filters at the Facility.

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: TEXAS PACIFICO TRANSPORTATION, LTD., Docket No. 2015-0117-MLM-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 unauthorized waste, wastewater, and/or petroleum products at the Facility.
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Conduct waste determinations and waste classifications on all waste streams generated at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504 and 40 CFR § 262.11;
 - ii. Submit a properly completed used oil filter registration form to:

Used Oil and Recycling Program
Registration and Reporting Section, MC 129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - iii. Develop and implement a Storm Water Pollution Prevention Plan to comply with the requirements of TPDES GP No. TXR050000; and
 - iv. Submit a Notice of Intent and associated fees to:

Storm Water and Pretreatment Team, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - c. Within 45 days after the effective date of this Agreed Order, submit a report, which includes a summary of remediation activities that took place, confirming that all contaminated soil at the Facility has been properly remediated. Remediation activities will address all areas where soil has been contaminated with used oil and fuel at the Facility. The report shall include analytical results of soil confirmation sampling which characterizes the effectiveness of contaminated soil removal in all contaminated areas and documentation that contaminated soil has been disposed of at an authorized facility. This report shall be submitted to the addresses listed in Ordering Provision No. 2.d.
 - d. Within 60 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.c. 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:

Water Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7035

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

Ramona Mauer
For the Executive Director

8/14/15
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]
Signature

May 4, 2015
Date

Federico Diaz Page
Name (Printed or typed)

Executive Vice President
Title

Authorized Representative of
TEXAS PACIFICO TRANSPORTATION, LTD.

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.