

Executive Summary – Enforcement Matter – Case No. 51127
Kiewit Offshore Services, Ltd.
RN102905064
Docket No. 2015-1253-IHW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IHW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Kiewit Offshore Services, 2440 Kiewit Road, Ingleside, San Patricio County

Type of Operation:

Offshore facilities fabricator

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 8, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,978

Amount Deferred for Expedited Settlement: \$2,195

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,392

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$4,391

Name of SEP: National Audubon Society d/b/a Audubon Texas (Third-Party
Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 5, 2015

Date(s) of NOE(s): July 31, 2015

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Violation Information

1. Failed to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. Specifically, the Respondent was not tracking the accumulation start dates for three boxes of waste lamps, one container of waste batteries, and six waste paint drums [30 TEX. ADMIN. CODE § 335.261(a) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 273.15(c)].
2. Failed to update the Facility's Notice of Registration ("NOR"). Specifically, the NOR was not updated to reflect the correct primary contact information, include a Waste Management Unit observed within the Facility's fuel tank farm, properly include the characteristic code D001 for waste stream TWC0111202H, and list characteristic code D002, as manifested, for waste stream TWC0026003H [30 TEX. ADMIN. CODE § 335.6(c)].
3. Failed to submit to the Executive Director a complete and correct Annual Waste Summary ("AWS") detailing the management of each hazardous and Class 1 waste generated on-site during the reporting calendar year. Specifically, an AWS was not submitted for calendar years 2013 or 2014 [30 TEX. ADMIN. CODE § 335.9(a)(2)].
4. Failed to inspect areas where waste containers are stored at least weekly to look for leaking containers or deterioration of containers caused by corrosion or other factors [30 TEX. ADMIN. CODE §§ 335.69(a)(1)(A) and 335.112(a)(8), and 40 CFR §§ 262.34(a)(1)(i) and 265.174].
5. Failed to manifest Class 1 waste utilizing a Universal Hazardous Waste Manifest. Specifically, shipments of used antifreeze (Class 1 waste/TWC00202961) were manifested on bills of lading on June 22, 2012, August 14, 2012, October 9, 2012, October 22, 2012, and October 7, 2013 [30 TEX. ADMIN. CODE §§ 335.10 and 335.24(g)].
6. Failed to maintain documentation of hazardous waste determinations and waste classifications, including analytical data and/or process knowledge. Specifically, the Respondent did not have waste determination documentation for waste streams TWC0042219H, TWC0043219H, TWC0111202H, and TWC00173892 [30 TEX. ADMIN. CODE § 335.513(c) and 40 CFR § 262.40(c)].
7. Failed to label or mark clearly each container with the words "Hazardous Waste" while being accumulated. Specifically, a 55-gallon drum containing waste stream TWC0111202H located in WMU-002 was not labeled [30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. Marked accumulation start dates on universal waste containers on June 5, 2015;
- b. Updated the Facility's NOR on June 11, 2015;
- c. Submitted a complete and correct AWS for 2013 and 2014 on June 12, 2015 and June 24, 2015.
- d. Developed and implemented procedures to ensure weekly inspections of container storage areas are being conducted and resumed weekly inspections on June 12, 2015;
- e. Developed and implemented procedures to ensure Class 1 Waste is properly manifested on a Universal Hazardous Waste Manifest;
- f. Began maintaining documentation of hazardous waste determinations and waste classifications, including analytical and/or process knowledge on June 12, 2015; and
- g. Labeled the 55-gallon drum of hazardous waste on June 5, 2015.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

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

Executive Summary – Enforcement Matter – Case No. 51127
Kiewit Offshore Services, Ltd.
RN102905064
Docket No. 2015-1253-IHW-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rebecca Boyett, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-2503; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Fuat Sezer, President, Kiewit Offshore Services, Ltd., 1000 Kiewit Plaza,
Omaha, Nebraska 68131

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-1253-IHW-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kiewit Offshore Services, Ltd.
Penalty Amount:	Eight Thousand Seven Hundred Eighty-Three Dollars (\$8,783)
SEP Offset Amount:	Four Thousand Three Hundred Ninety-One Dollars (\$4,391)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	National Audubon Society, Inc. d/b/a Audubon Texas
Project Name:	<i>Texas Coastal Island Stewardship Program</i>
Location of SEP:	Anderson, Andrews, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Castro, Chambers, Clay, Cochran, Coke, Coleman, Collin, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Crockett, Crosby, Dallas, Dawson, Denton, DeWitt, Dickens, Dimmit, Duval, Eastland, Ector, Edwards, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Fort Bend, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Grayson, Grimes, Guadalupe, Hale, Hamilton, Hardin, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hunt, Irion, Jack, Jackson, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, La Salle, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Menard, Medina, Midland, Milam, Mills, Mitchell, Montague, Navarro, Nolan, Nueces, Palo Pinto, Parker, Parmer, Polk, Reagan, Real, Refugio, Robertson, Refugio, Runnels, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terry, Throckmorton, Tom Green, Travis, Trinity, Upton, Uvalde, Van Zandt, Walker, Waller, Washington, Victoria, Webb, Wharton, Willacy, Williamson, Wilson, Winkler, Wise, Yoakum, Young, and Zavala Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **National Audubon Society, Inc. d/b/a Audubon Texas** for the *Texas Coastal Island Stewardship Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used for a portion of its lease payments for the islands where this Project will take place. The SEP Offset Amount will also be used for predator control activities, including traps, baits, fire ant control, and fuel for accessing the islands to place the traps and baits. Contractors will also be hired periodically to conduct larger-scale predator control activities such as feral hog removal. The Third-Party Administrator shall also use SEP Offset Amount for restoration activities, including planting native trees and shrubs, herbicide for invasive species removal, equipment such as rakes and shovels for manual invasive species removal, and fuel for transporting volunteers and staff for restoration activities. Restoration activities will also include purchase and disposal of a Bagster in order to remove collected trash from the islands. The Third-Party Administrator shall also purchase materials for building nesting towers, purchase "No Trespassing" signs, and hire a contractor to install the signs across the islands.

The Third-Party Administrator shall use the SEP Offset Amount for personnel labor through its warden program. Wardens shall conduct monitoring, habitat enhancement, and predator management. Wardens shall also conduct island management activities such as patrolling and counting bird populations by boat during the nesting season, developing new nesting habitat through plantings, and monitoring predator activity and erosion. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The populations of many species of water bird located along the Texas coast have been declining. Healthy feeding and nesting habitats are essential to the water birds' ability to survive and successfully reproduce. This Project addresses threats to water bird habitats such as erosion and subsidence, loss of nesting vegetation, fire ants, human disturbance, and mammal predators. This Project will also improve water quality in and around the island sanctuaries.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **National Audubon Society, Inc. d/b/a Audubon Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

National Audubon Society, Inc. d/b/a Audubon Texas
Attn.: Sharyl Sliger, Director of Finance & Administration
2201 Main Street, Suite 600
Dallas, Texas 75201

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	3-Aug-2015	Screening	10-Aug-2015	EPA Due	
	PCW	21-Aug-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kiewit Offshore Services, Ltd.
Reg. Ent. Ref. No.	RN102905064
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	51127	No. of Violations	7
Docket No.	2015-1253-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Boyett
		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	\$14,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	0.0% Enhancement Subtotals 2, 3, & 7	\$0

Notes: Since the adjustment for the reduction for one Notice of Intent to conduct an audit and one disclosure of violations is below zero, the adjustment percentage (subtotal 2) defaults to zero.

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	-\$3,622
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$107	<small>*Capped at the Total EB \$ Amount</small>	
<small>Estimated Cost of Compliance</small>	\$4,710		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,878
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.9%	Adjustment	\$100
Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 4.		
	Final Penalty Amount	\$10,978	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,978
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,195
Notes	Deferral offered for expedited settlement.		

PAYABLE PENALTY	\$8,783
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Screening Date 10-Aug-2015

Docket No. 2015-1253-IHW-E

PCW

Respondent Kiewit Offshore Services, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51127

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Since the adjustment for the reduction for one Notice of Intent to conduct an audit and one disclosure of violations is below zero, the adjustment percentage (subtotal 2) defaults to zero.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 10-Aug-2015
Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127

Docket No. 2015-1253-IHW-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Rebecca Boyett
Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.261(a) and 40 Code of Federal Regulations ("CFR") § 273.15(c)

Violation Description
 Failed to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. Specifically, the Respondent was not tracking the accumulation start dates for three boxes of waste lamps, one container of waste batteries, and six waste paint drums.

Base Penalty \$25,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 1 Number of violation days

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

Violation Base Penalty \$1,250

One monthly event is recommended from the June 5, 2015 investigation date to the June 5, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Notes: The Respondent achieved compliance on June 5, 2015 prior to the Notice of Enforcement ("NOE") dated July 31, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$947

This violation Final Assessed Penalty (adjusted for limits) \$947

Economic Benefit Worksheet

Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127
Reg. Ent. Reference No. RN102905064
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Other (as needed)	\$100	5-Jun-2015	5-Jun-2015	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to mark the accumulation start dates on universal waste containers. The Date Required is the investigation date and the Final Date is the 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 \$0

Screening Date 10-Aug-2015

Docket No. 2015-1253-IHW-E

PCW

Respondent Kiewit Offshore Services, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51127

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Violation Number 2

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

Violation Description

Failed to update the Facility's Notice of Registration ("NOR"). Specifically, the NOR was not updated to reflect the correct primary contact information, include a Waste Management Unit observed within the Facility's fuel tank farm, properly include the characteristic code D001 for waste stream TWC0111202H, and list characteristic code D002, as manifested, for waste stream TWC0026003H.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 6

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

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on June 11, 2015 prior to the NOE dated July 31, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$947

This violation Final Assessed Penalty (adjusted for limits) \$947

Economic Benefit Worksheet

Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127
Reg. Ent. Reference No. RN102905064
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	5-Jun-2015	11-Jun-2015	0.02	\$1	n/a	\$1

Notes for DELAYED costs

Estimated delayed cost to update the Facility's NOR. The Date Required is the investigation date and the Final Date is the 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	\$1,000	TOTAL	\$1
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Screening Date 10-Aug-2015

Docket No. 2015-1253-IHW-E

PCW

Respondent Kiewit Offshore Services, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51127

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Violation Number 3

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

Violation Description Failed to submit to the executive director a complete and correct Annual Waste Summary ("AWS") detailing the management of each hazardous and Class 1 waste generated on-site during the reporting calendar year. Specifically, an AWS was not submitted for calendar years 2013 or 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0.0%

>> Programmatic Matrix

Falsification	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 2

730 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

Two single events are recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$625

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

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on June 24, 2015 prior to the NOE dated July 31, 2015.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,892

This violation Final Assessed Penalty (adjusted for limits) \$1,892

Economic Benefit Worksheet

Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127
Reg. Ent. Reference No. RN102905064
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	5-Jun-2015	24-Jun-2015	0.05	\$5	n/a	\$5

Notes for DELAYED costs

Estimated delayed cost to submit a complete and correct AWS for 2013 and 2014 (\$1000/AWS). The Date Required is the investigation date and the Final Date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000

TOTAL \$5

Screening Date 10-Aug-2015

Docket No. 2015-1253-IHW-E

PCW

Respondent Kiewit Offshore Services, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51127

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 335.69(a)(1)(A) and 335.112(a)(8), and 40 CFR §§ 262.34(a)(1)(i) and 265.174

Violation Description

Failed to inspect areas where waste containers are stored at least weekly to look for leaking containers or deterioration of containers caused by corrosion or other factors.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

7 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$187

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

Notes The Respondent achieved compliance on June 12, 2015 prior to the NOE dated July 31, 2015.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$568

This violation Final Assessed Penalty (adjusted for limits) \$568

Economic Benefit Worksheet

Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127
Reg. Ent. Reference No. RN102905064
Media Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$500	5-Jun-2015	12-Jun-2015	0.02	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures to ensure weekly inspections of container storage areas are being conducted. The Date Required is the investigation date and the Final Date is the compliance date.

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)	\$100	29-May-2015	5-Jun-2015	0.00	\$0	\$100	\$100

Notes for AVOIDED costs

Avoided cost to conduct weekly inspections of waste container storage areas. The Date Required is one week prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance

\$600

TOTAL

\$100

Screening Date 10-Aug-2015

Docket No. 2015-1253-IHW-E

PCW

Respondent Kiewit Offshore Services, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51127

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 335.10 and 335.24(g)

Violation Description

Failed to manifest Class 1 waste utilizing a Uniform Hazardous Waste Manifest ("UHWWM). Specifically, shipments of used antifreeze (Class 1 waste/TWC00202961) were manifested on bills of lading on June 22, 2012, August 14, 2012, October 9, 2012, October 22, 2012, and October 7, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5 Number of violation days 5

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

Violation Base Penalty \$6,250

Five single events are recommended (one for each shipment manifested incorrectly).

Good Faith Efforts to Comply

25.0%

Reduction \$1,562

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

Notes The Respondent achieved compliance on June 12, 2015 prior to the NOE dated July 31, 2015.

Violation Subtotal \$4,688

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,731

This violation Final Assessed Penalty (adjusted for limits) \$4,731

Economic Benefit Worksheet

Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127
Reg. Ent. Reference No. RN102905064
Media Industrial and Hazardous Waste
Violation No. 5

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

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	\$500	5-Jun-2015	12-Jun-2015	0.02	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures to ensure Class 1 Waste is properly manifested on a UHWM. The Date Required is the investigation date and the Final Date is the compliance date.

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

\$500

TOTAL

\$0

Screening Date 10-Aug-2015

Docket No. 2015-1253-IHW-E

PCW

Respondent Kiewit Offshore Services, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51127

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 335.513(c) and 40 CFR § 262.40(c)

Violation Description Failed to maintain documentation of hazardous waste determinations and waste classifications, including analytical data and/or process knowledge. Specifically, the Respondent did not have waste determination documentation for waste streams TWC0042219H, TWC0043219H, TWC0111202H, and TWC00173892.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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 \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 66

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

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Notes The Respondent achieved compliance on June 12, 2015 prior to the NOE dated July 31, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$947

This violation Final Assessed Penalty (adjusted for limits) \$947

Economic Benefit Worksheet

Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127
Reg. Ent. Reference No. RN102905064
Media Industrial and Hazardous Waste
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	5-Jun-2015	12-Jun-2015	0.02	\$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

Estimated delayed cost to maintain documentation of hazardous waste determinations and waste classifications, including analytical data and/or process knowledge. The Date Required is the investigation date and the Final Date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$0

Screening Date 10-Aug-2015

Docket No. 2015-1253-IHW-E

PCW

Respondent Kiewit Offshore Services, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 51127

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102905064

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(3) and 40 CFR § 262.34(a)(3)

Violation Description Failed to label or mark clearly each container with the words "Hazardous Waste" while being accumulated. Specifically, a 55-gallon drum containing waste stream TWC0111202H located in WMU-002 was not labeled.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR Release Harm Major Moderate Minor Actual Potential Percent 0.0%

>> Programmatic Matrix

Falsification Major Moderate Minor Percent 5.0% Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$1,250

One monthly event is recommended from the June 5, 2015 investigation date to the June 5, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer Extraordinary Ordinary N/A

Notes The Respondent achieved compliance on June 5, 2015 prior to the NOE dated July 31, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$947

This violation Final Assessed Penalty (adjusted for limits) \$947

Economic Benefit Worksheet

Respondent Kiewit Offshore Services, Ltd.
Case ID No. 51127
Reg. Ent. Reference No. RN102905064
Media Industrial and Hazardous Waste
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Other (as needed)	\$10	5-Jun-2015	5-Jun-2015	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to label the 55-gallon drum of hazardous waste. The Date Required is the investigation date and the Final Date is the compliance date.

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

\$10

TOTAL

\$0

The TCEQ is committed to accessibility.

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



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604333369, RN102905064, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN604333369, Kiewit Offshore Services, Ltd.	Classification: SATISFACTORY	Rating: 18.00
Regulated Entity:	RN102905064, KIEWIT OFFSHORE SERVICES	Classification: SATISFACTORY	Rating: 18.00
Complexity Points:	13	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	2440 KIEWIT RD INGLESIDE, TX 78362-5101, SAN PATRICIO COUNTY		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 47227	AIR NEW SOURCE PERMITS ACCOUNT NUMBER SD0184W
AIR NEW SOURCE PERMITS REGISTRATION 112355	AIR NEW SOURCE PERMITS REGISTRATION 109413
AIR NEW SOURCE PERMITS REGISTRATION 105659	AIR NEW SOURCE PERMITS AFS NUM 4840900230
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000042648	INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 86769
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 74333	STORMWATER PERMIT TXR15XD89
STORMWATER PERMIT TXR05BU10	AIR OPERATING PERMITS PERMIT 3343
AIR OPERATING PERMITS ACCOUNT NUMBER SD0184W	AIR EMISSIONS INVENTORY ACCOUNT NUMBER SD0184W
POLLUTION PREVENTION PLANNING ID NUMBER P07089	

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

Date Compliance History Report Prepared: August 14, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 10, 2010 to August 10, 2015

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

Name: Rebecca Boyett

Phone: (512) 239-2503

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 May 16, 2014 (1159640)

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:

Notice of Intent Date: 11/14/2011 (980568)

Disclosure Date: 07/23/2012

Viol. Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.960

40 CFR Chapter 63, SubChapter C, PT 63, SubPT MMMM 63.3920(a)

Description: Failure to submit semiannual compliance reports under the National Emission Standard for Hazardous Air Pollutants for Surface coating of Miscellaneous Metal parts (Subpart MMMM).

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: Failure to affirmatively authorize aerosol-propelled coatings in permit via the relevant PBR, 30 TAC 106.433, or by satisfying the 4 can/day de minimis threshold. Failure to puncture used aerosol-propelled cans without emissions being affirmatively authorized in their NSR air permit or by staying under the de minimus threshold of 40 cans/day.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KIEWIT OFFSHORE SERVICES,
LTD.
RN102905064**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-1253-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 Kiewit Offshore Services, Ltd. ("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 together stipulate that:

1. The Respondent owns and operates an offshore facilities fabricator at 2440 Kiewit Road in Ingleside, San Patricio County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste 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 August 5, 2015.
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 Ten Thousand Nine Hundred Seventy-Eight Dollars (\$10,978) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Three Hundred

Ninety-Two Dollars (\$4,392) of the administrative penalty and Two Thousand One Hundred Ninety-Five Dollars (\$2,195) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Three Hundred Ninety-One Dollars (\$4,391) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Marked accumulation start dates on universal waste containers on June 5, 2015;
 - b. Updated the Facility's Notice of Registration ("NOR") on June 11, 2015;
 - c. Submitted a complete and correct Annual Waste Summary ("AWS") for 2013 and 2014 on June 12, 2015 and June 24, 2015.
 - d. Developed and implemented procedures to ensure weekly inspections of container storage areas are being conducted and resumed weekly inspections on June 12, 2015;
 - e. Developed and implemented procedures to ensure Class 1 Waste is properly manifested on a Universal Hazardous Waste Manifest ("UHWM");
 - f. Began maintaining documentation of hazardous waste determinations and waste classifications, including analytical and/or process knowledge on June 12, 2015; and
 - g. Labeled the 55-gallon drum of hazardous waste on June 5, 2015.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received, in violation of 30 TEX. ADMIN. CODE § 335.261(a) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 273.15(c), as documented during an investigation conducted on June 5, 2015. Specifically, the Respondent was not tracking the accumulation start dates for three boxes of waste lamps, one container of waste batteries, and six waste paint drums.
2. Failed to update the Facility's NOR, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on June 5, 2015. Specifically, the NOR was not updated to reflect the correct primary contact information, include a Waste Management Unit observed within the Facility's fuel tank farm, properly include the characteristic code D001 for waste stream TWC0111202H, and list characteristic code D002, as manifested, for waste stream TWC0026003H.
3. Failed to submit to the executive director a complete and correct AWS detailing the management of each hazardous and Class 1 waste generated on-site during the reporting calendar year, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(2), as documented during an investigation conducted on June 5, 2015. Specifically, an AWS was not submitted for calendar years 2013 or 2014.
4. Failed to inspect areas where waste containers are stored at least weekly to look for leaking containers or deterioration of containers caused by corrosion or other factors, in violation of 30 TEX. ADMIN. CODE §§ 335.69(a)(1)(A) and 335.112(a)(8), and 40 CFR §§ 262.34(a)(1)(i) and 265.174, as documented during an investigation conducted on June 5, 2015.
5. Failed to manifest Class 1 waste utilizing a UHWM, in violation of 30 TEX. ADMIN. CODE §§ 335.10 and 335.24(g), as documented during an investigation conducted on June 5, 2015. Specifically, shipments of used antifreeze (Class 1 waste/TWC00202961) were manifested on bills of lading on June 22, 2012, August 14, 2012, October 9, 2012, October 22, 2012, and October 7, 2013.
6. Failed to maintain documentation of hazardous waste determinations and waste classifications, including analytical data and/or process knowledge, in violation of 30 TEX. ADMIN. CODE § 335.513(c) and 40 CFR § 262.40(c), as documented during an investigation conducted on June 5, 2015. Specifically, the Respondent did not have waste determination documentation for waste streams TWC0042219H, TWC0043219H, TWC0111202H, and TWC00173892.

7. Failed to label or mark clearly each container with the words "Hazardous Waste" while being accumulated, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(3) and 40 CFR § 262.34(a)(3), as documented during an investigation conducted on June 5, 2015. Specifically, a 55-gallon drum containing waste stream TWC0111202H located in WMU-002 was not labeled.

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: Kiewit Offshore Services, Ltd., Docket No. 2015-1253-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. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Three Hundred Ninety-One Dollars (\$4,391) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Tracy Miller for Ramiro Garcia
For the Executive Director

6.16.16
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.

Fuat Sezer
Signature

NOV-24, 2015
Date

FUAT SEZER
Name (Printed or typed)
Authorized Representative of
Kiewit Offshore Services, Ltd.

President
Title

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.

Attachment A

Docket Number: 2015-1253-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kiewit Offshore Services, Ltd.
Penalty Amount:	Eight Thousand Seven Hundred Eighty-Three Dollars (\$8,783)
SEP Offset Amount:	Four Thousand Three Hundred Ninety-One Dollars (\$4,391)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	National Audubon Society, Inc. d/b/a Audubon Texas
Project Name:	<i>Texas Coastal Island Stewardship Program</i>
Location of SEP:	Anderson, Andrews, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Castro, Chambers, Clay, Cochran, Coke, Coleman, Collin, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Crockett, Crosby, Dallas, Dawson, Denton, DeWitt, Dickens, Dimmit, Duval, Eastland, Ector, Edwards, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Fort Bend, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Grayson, Grimes, Guadalupe, Hale, Hamilton, Hardin, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hunt, Irion, Jack, Jackson, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, La Salle, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Menard, Medina, Midland, Milam, Mills, Mitchell, Montague, Navarro, Nolan, Nueces, Palo Pinto, Parker, Parmer, Polk, Reagan, Real, Refugio, Robertson, Refugio, Runnels, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terry, Throckmorton, Tom Green, Travis, Trinity, Upton, Uvalde, Van Zandt, Walker, Waller, Washington, Victoria, Webb, Wharton, Willacy, Williamson, Wilson, Winkler, Wise, Yoakum, Young, and Zavala Counties

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **National Audubon Society, Inc. d/b/a Audubon Texas** for the *Texas Coastal Island Stewardship Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used for a portion of its lease payments for the islands where this Project will take place. The SEP Offset Amount will also be used for predator control activities, including traps, baits, fire ant control, and fuel for accessing the islands to place the traps and baits. Contractors will also be hired periodically to conduct larger-scale predator control activities such as feral hog removal. The Third-Party Administrator shall also use SEP Offset Amount for restoration activities, including planting native trees and shrubs, herbicide for invasive species removal, equipment such as rakes and shovels for manual invasive species removal, and fuel for transporting volunteers and staff for restoration activities. Restoration activities will also include purchase and disposal of a Bagster in order to remove collected trash from the islands. The Third-Party Administrator shall also purchase materials for building nesting towers, purchase "No Trespassing" signs, and hire a contractor to install the signs across the islands.

The Third-Party Administrator shall use the SEP Offset Amount for personnel labor through its warden program. Wardens shall conduct monitoring, habitat enhancement, and predator management. Wardens shall also conduct island management activities such as patrolling and counting bird populations by boat during the nesting season, developing new nesting habitat through plantings, and monitoring predator activity and erosion. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The populations of many species of water bird located along the Texas coast have been declining. Healthy feeding and nesting habitats are essential to the water birds' ability to survive and successfully reproduce. This Project addresses threats to water bird habitats such as erosion and subsidence, loss of nesting vegetation, fire ants, human disturbance, and mammal predators. This Project will also improve water quality in and around the island sanctuaries.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **National Audubon Society, Inc. d/b/a Audubon Texas SEP** and shall mail the contribution with a copy of the Agreed Order to the following address.

National Audubon Society, Inc. d/b/a Audubon Texas
Attention: Iliana A. Pena, Director of Conservation
2904 Swiss Avenue
Dallas, Texas 75204

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to the following address.

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

Kiewit Offshore Services, Ltd.
Agreed Order - Attachment A

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to the following address.

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.