

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0517-MWD-E TCEQ ID NO.: RN101263101 CASE NO.: 29281
RESPONDENT NAME: BLACKSHER DEVELOPMENT CORPORATION

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 3900 feet northwest of the intersection of Highway 62 and Highway 87, Orange, Orange County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No.</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 15, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Section I, MC 169, (512) 239-4493 TCEQ Regional Contact: Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838 Respondent: Mr. Dan Blacksher, President, Blacksher Development Corporation, RT 5 Box 1460-A, Highway 87 South, Orange, Texas 77630 and 4158 Highway 87 South, Orange, Texas 77630 Respondent's Attorney: Not represented by counsel.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: February 10, 2006 and February 15, 2006</p> <p>Dates of NOV/NOEs Relating to this Case: April 12, 2006 (NOE)</p> <p>Background Facts:</p> <p>An EDPRP was filed on March 30, 2007. The certified mail was returned unclaimed but the first class mail was not returned. The Respondent has not requested a hearing, filed an answer or scheduled a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MWD:</p> <p>1. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Facility was not functioning properly and sludge had accumulated around the outfall pipe and on downed tree limbs in the receiving stream [30 TEX. ADMIN. CODE § 305.125(5), TPDES Permit No. 13691001, Operation Requirements No. 1 and TEX. WATER CODE § 26.121(a)].</p> <p>2. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Widgeon and Greenwig lift stations had inoperable alarms; the Greenwig lift station was equipped with only one pump and there was excessive grease in the wet well; and both lift stations were easily accessible with the fences and we well open [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.3(b)(1), (b)(3) and (e)(5) and TPDES Permit No. 13691001, Operation Requirements No. 1].</p>	<p>Total Assessed: \$29,577</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$29,577</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility in response to this enforcement action:</p> <ol style="list-style-type: none"> On February 14, 2006, submitted noncompliance notification of the unauthorized discharge. As of March 1, 2006, an operable pump was installed in the Greenwig lift station. On March 3, 2006, submitted the delinquent discharge monitoring reports ("DMRs"). On April 3, 2006, submitted photographic documentation that the fencing at the Facility had been repaired. As of April 3, 2006, obtained DPD and potassium iodide. On April 4, 2006, submitted copies of the annual sludge reports for 2003, 2004, and 2005. As of April 4, 2006, submitted photographic documentation that the grease was removed from the Widgeon lift station and that the Greenwig and Widgeon lift stations were locked and equipped the Widgeon lift station with two operable pumps. As of April 12, 2006, Cleaned the colorimeter sample cells with bleach to remove dirt.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the wastewater treatment plant had only one operable blower [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(g)(4)(B)(iii) and TPDES Permit No. 13691001, Operation Requirements No. 1].</p> <p>4. Failed to submit noncompliance notifications to the TCEQ for effluent violations which deviated from the permitted effluent limitation by more than forty percent [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 7(c)].</p> <p>5. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 13691001, Operation Requirements No. 1].</p> <p>6. Failed to timely submit the annual sludge report to the TCEQ by September 1st of 2003, 2004 and 2005 [30 TEX. ADMIN. CODE § 305.125(1)(B) and TPDES Permit No. 13691001, Sludge Provisions Section III No. G].</p> <p>7. Failed to properly secure the wastewater treatment plant [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.7(e) and TPDES Permit No. 13691001, Operation Requirements No. 1].</p> <p>8. Failed to timely submit DMRs by the 20th day of the following month [30 TEX. ADMIN. CODE § 319.7(d), TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 1].</p> <p>9. Failed to properly analyze effluent samples for total chlorine residual [30 TEX. ADMIN. CODE § 319.11(c) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 2].</p> <p>10. Failed to comply with its permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 13691001, Effluent Limitations and Monitoring Requirements No. 1 and TEX. WATER CODE § 26.121(a)].</p> <p>11. Failed to submit noncompliance notification to the TCEQ for an unauthorized discharge from the Greenwig lift station that occurred on February 11, 2006 [30 TEX. ADMIN. CODE § 305.125(9)(A) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 7(a)].</p>		<p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, begin timely submitting noncompliance notifications for all unauthorized discharges from the Facility and effluent violations that deviate from the permit limit by more than 40% to the TCEQ Beaumont Regional Office orally or by facsimile within 24 hours of becoming aware of the noncompliance. Written submission of the noncompliance shall be submitted to the TCEQ Beaumont Regional Office and the TCEQ Enforcement Division within five working days of becoming aware of the noncompliance. 2. Within 30 days, remove and properly dispose of all sludge and tree limbs in the receiving stream. 3. Within 60 days: <ol style="list-style-type: none"> a. repair and/replace the corroded handrails, bar screen, side beams of the clarifier, and the outlet to the clarifier from the aeration basin, and the teeth on the sawtooth weir; b. replace and/or repair the inoperable blower at the Facility; c. install functional audiovisual alarms at the Widgeon and Greenwig lift stations; d. install an additional pump at the Greenwig lift station; and e. develop and implement a plan and schedule for achieving compliance with the permitted effluent limitations contained in TPDES Permit No. 13691001. The plan shall include interim milestone dates with a deadline date of 180 days after the effective date of the Commission Order for completion. The plan and schedule shall be prepared by a Texas registered professional engineer and/or other qualified professional with expertise in the design and operation of industrial wastewater treatment facilities 4. Within 75 days, submit written certification demonstrating compliance with Ordering Provision Nos. 1 - 3. 5. Within 185 days, submit written certification demonstrating compliance with permitted effluent limits in TPDES Permit No. 13691001.



Penalty Calculation Worksheet (PCW)
Policy Revision 2 (September 2002) PCW Revision May 19, 2005

DATES	Assigned	17-Apr-2006	Screening	04-May-2006	EPA Due	
	PCW	23-Jun-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Blacksher Development Corporation
Reg. Ent. Ref. No.	RN101263101
Facility/Site Region	10-Beaumont <input checked="" type="checkbox"/>
Major/Minor Source	Minor Source <input checked="" type="checkbox"/>

CASE INFORMATION			
Enf./Case ID No.	29281	No. of Violations	11
Docket No.	2006-0517-MWD-E-	Order Type	1660 <input checked="" type="checkbox"/>
Media Program(s)	Water Quality <input checked="" type="checkbox"/>	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	Enforcement Team 1 <input checked="" type="checkbox"/>
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$18,500
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	125% Enhancement	Subtotals 2, 3, & 7 \$23,125
Notes	The respondent received one 1660 order, three NOV's for same or similar violations, and has 18 months of self-reported effluent violations.	
Culpability	No <input checked="" type="checkbox"/> 0% Enhancement	Subtotal 4 \$0
Notes	The respondent does not meet the culpability criteria.	
Good Faith Effort to Comply	0% Reduction	Subtotal 5 \$0
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	X	<small>(mark with a small x)</small>
Notes	The respondent is not yet in compliance.	
Economic Benefit	0% Enhancement*	Subtotal 6 \$0
<small>Total EB Amounts</small>	\$1,926	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small>	\$34,260	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$41,625
OTHER FACTORS AS JUSTICE MAY REQUIRE	29% Reduction	Adjustment -\$12,048
<small>Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)</small>		
Notes	Recommend reduction in penalty so that monthly self-reported and noncompliance notification violations do not overly impact the penalty amount.	
	Final Penalty Amount	\$29,577
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$29,577
DEFERRAL	0% Reduction	Adjustment \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	No deferral because this is not an expedited order.	
PAYABLE PENALTY		\$29,577

Screening Date 04-May-2006

corp.wb3

Docket No. 2006-0517-MWD-E

PCW

Respondent Blacksher Development Corporation

Policy Revision 2 (September 2002)

Case ID No. 29281

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101263101

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	21	105%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</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) 125%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The respondent received one 1660 order, three NOVs for same or similar violations, and has 18 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 125%

Screening Date 04-May-2006	Docket No. 2006-0517-MWD-E	PCW		
Respondent Blacksher Development Corporation	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 29281	<i>PCW Revision May 19, 2005</i>			
Reg. Ent. Reference No. RN101263101				
Media [Statute] Water Quality				
Enf. Coordinator Pamela Campbell				
Violation Number <input type="text" value="1"/>				
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(5), TPDES Permit No. 13691001			
Secondary Rule Cite(s)	Operational Requirements No.1, and Tex. Water Code § 26.121(a)			
Violation Description	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. As documented during the February 10, 2006 investigation, the plant was in upset and sludge had accumulated around the outfall pipe and on downed tree limbs in the receiving stream.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
OR Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
			Percent <input type="text" value="10%"/>	
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<input type="text"/>			<input type="text"/>	<input type="text"/>
			Percent <input type="text"/>	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
			Adjustment <input type="text" value="-\$9,000"/>	
			Base Penalty Subtotal <input type="text" value="\$1,000"/>	
Violation Events				
Number of Violation Events			<input type="text" value="1"/>	
<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
	<i>monthly</i>	<input type="text"/>		
	<i>quarterly</i>	<input checked="" type="checkbox"/>		
	<i>semiannual</i>	<input type="text"/>		
	<i>annual</i>	<input type="text"/>		
	<i>single event</i>	<input type="text"/>		
One quarterly event is recommended from the investigation date (February 10, 2006) to the screening date (May 4, 2006).				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$1,287"/>		Violation Final Penalty Total <input type="text" value="\$1,599"/>		
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,599"/>		

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] 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	EB
						Costs	Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$20,000	10-Feb-2006	31-Dec-2006	0.9	\$59	\$1,184	\$1,243
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$1,000	10-Feb-2006	31-Dec-2006	0.9	\$44	n/a	\$44
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to employ an additional wastewater treatment plant operator to provide additional operations and maintenance of the Facility and the estimated costs to remove and properly dispose of the solids and tree limbs in the receiving stream. The date required is the investigation date and the final date is the anticipated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 04-May-2006	Docket No. 2006-0517-MWD-E	PCW		
Respondent Blacksher Development Corporation	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 29281	<i>PCW Revision May 19, 2005</i>			
Reg. Ent. Reference No. RN101263101				
Media [Statute] Water Quality				
Enf. Coordinator Pamela Campbell				
Violation Number <input type="text" value="2"/>				
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(5), 317.3(a), 317.3(b)(1), 317.3(b)(3), 317.3(e)(5), and TPDES Permit No. 13691001 Operational Requirements No. 1			
Secondary Rule Cite(s)				
Violation Description	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. As documented during the February 10, and 15, 2006 investigations, the Widgeon and Greenwig lift stations had inoperable alarms; the Greenwig lift station was not equipped with any operable pumps; the Widgeon lift station was equipped with only one pump and there was excessive grease in the wet well; and both lift stations were easily accessible with the fences and wet wells open.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	x	<input type="text"/>	
			Percent <input type="text" value="10%"/>	
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<input type="text"/>			<input type="text"/>	<input type="text"/>
			Percent <input type="text"/>	
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
Adjustment			<input type="text" value="-\$9,000"/>	
Base Penalty Subtotal			<input type="text" value="\$1,000"/>	
Violation Events				
Number of Violation Events			<input type="text" value="2"/>	
<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,000"/>	
	<i>monthly</i>	<input type="text"/>		
	<i>quarterly</i>	x		
	<i>semiannual</i>	<input type="text"/>		
	<i>annual</i>	<input type="text"/>		
	<i>single event</i>	<input type="text"/>		
Two quarterly events are recommended (one per lift station) from the investigation date (February 10, 2006) to the screening date (May 4, 2006).				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$189"/>		Violation Final Penalty Total <input type="text" value="\$3,197"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$3,197"/>	

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
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	\$3,000	10-Feb-2006	01-Dec-2006	0.8	\$8	\$161	\$169
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$2,000	10-Feb-2006	04-Apr-2006	0.1	\$1	\$19	\$20
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to replace and/or repair the audiovisual alarms in both lift stations, and add an additional pump in the Greenwig lift station. The date required is the investigation date and the final date is the anticipated date of compliance. This is the estimated cost to remove and dispose of the grease in the Widgeon lift station; add an additional pump in the Widgeon lift station, and repair and/or replace one of the pumps in the Greenwig lift station. 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)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

corp.wb3

Screening Date 04-May-2006 **Docket No.** 2006-0517-MWD-E **PCW**

Respondent Blacksher Development Corporation *Policy Revision 2 (September 2002)*

Case ID No. 29281 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101263101

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	x	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

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

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the investigation date (February 10, 2006) to the screening date (May 4, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
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
Delayed Costs							
Equipment	\$2,000	10-Feb-2006	01-Dec-2006	0.8	\$5	\$107	\$113
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to repair and/or replace the inoperable blower at the wastewater treatment plant. The date required is the investigation date and the final date is the anticipated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **TOTAL**

Screening Date 04-May-2006	Docket No. 2006-0517-MWD-E	PCW	
Respondent Blacksher Development Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 29281	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No. RN101263101			
Media [Statute] Water Quality			
Enf. Coordinator Pamela Campbell			
Violation Number <input type="text" value="4"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 305.125(9)(A) and TPDES Permit No. 13691001 Monitoring and Reporting Requirements No. 7(a)"/>		
Secondary Rule Cite(s)	<input type="text"/>		
Violation Description	<input type="text" value="Failure to submit noncompliance notification to the TCEQ for an unauthorized discharge from the Greenwig lift station that occurred on February 11, 2006. As documented during the February 15, 2006 investigation, the respondent failed to submit noncompliance notification within 24 hours of discovering the unauthorized discharge. The noncompliance notification was submitted on February 14, 2006."/>		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text"/>
>> Programmatic Matrix			
Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>		
Adjustment		<input type="text" value="-\$9,000"/>	
Base Penalty Subtotal		<input type="text" value="\$1,000"/>	
Violation Events			
Number of Violation Events		<input type="text" value="1"/>	
<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>	
	<i>monthly</i>	<input type="text"/>	
	<i>quarterly</i>	<input type="text"/>	
	<i>semiannual</i>	<input type="text"/>	
	<i>annual</i>	<input type="text"/>	
<i>single event</i>	<input checked="" type="checkbox"/>		
Violation Base Penalty		<input type="text" value="\$1,000"/>	
<input type="text" value="One single event is recommended based on the February 15, 2006 investigation."/>			
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$0"/>	
		Violation Final Penalty Total	
		<input type="text" value="\$1,599"/>	
		This violation Final Assessed Penalty (adjusted for limits)	
		<input type="text" value="\$1,599"/>	

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime	EB
						Costs	Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	12-Feb-2006	14-Feb-2006	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to prepare noncompliance notification, make a copy, and send the original to the TCEQ. The date required is the date that the noncompliance notification was due and the final date is the date the noncompliance notification was submitted to the TCEQ.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 04-May-2006 **Docket No.** 2006-0517-MWD-E **PCW**
Respondent Blacksher Development Corporation *Policy Revision 2 (September 2002)*
Case ID No. 29281 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
Enf. Coordinator Pamela Campbell
Violation Number 5
Primary Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 13691001
Secondary Rule Cite(s) Monitoring and Reporting Requirements No. 7(c)
Violation Description Failure to submit noncompliance notifications to the TCEQ for effluent violations which deviated from the permitted effluent limitation by more than 40%. As documented during the February 10, 2006 investigation, the respondent failed to submit noncompliance notifications for violations that occurred in July 2004, October 2004, April 2005, June, August, October, and December 2005.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 7

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$7,000

Seven single events (one for each report) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$11,191

This violation Final Assessed Penalty (adjusted for limits) \$11,191

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime	EB
						Costs	Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	20-Aug-2004	01-Dec-2006	2.3	\$0	\$8	\$8
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to prepare noncompliance notification, make a copy, and send the original to the TCEQ. The date required is the date that the noncompliance notification was due and the final date is the anticipated date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **TOTAL**

corp.wb3

Screening Date 04-May-2006 **Docket No.** 2006-0517-MWD-E **PCW**

Respondent Blacksher Development Corporation *Policy Revision 2 (September 2002)*

Case ID No. 29281 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101263101

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
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
Delayed Costs							
Equipment	\$5,000	10-Feb-2006	31-Dec-2006	0.9	\$15	\$296	\$311
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to replace the corroded equipment and to replace the teeth on the sawtooth weir. The date required is the investigation date and the final date is the anticipated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **TOTAL**

Screening Date	04-May-2006	Docket No.	2006-0517-MWD-E	PCW
Respondent	Blacksher Development Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	29281	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN101263101			
Media [Statute]	Water Quality			
Enf. Coordinator	Pamela Campbell			
Violation Number	7			
Primary Rule Cite(s)	30 Tex. Admin.Code § 305.125(11)(B) and TPDES Permit No. 13691001 Sludge Provisions Section III No. G			
Secondary Rule Cite(s)				
Violation Description	Failure to timely submit the annual sludge report to the TCEQ by September 1 of each year. As documented during the February 10, 2006 investigation, the respondent failed to submit the 2003, 2004, and 2005 annual sludge reports to the TCEQ by the required dates.			
Base Penalty				\$10,000

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

		Harm			
		Major	Moderate	Minor	
OR	Release				Percent <input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	X	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	X
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10	01-Sep-2003	04-Apr-2006	2.6	\$0	\$2	\$2
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to prepare, make a copy, and mail the original sludge report to the TCEQ. The date required is the date that the 2003 annual sludge report was due and the final date is the date that the reports were submitted to the TCEQ.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date 04-May-2006

corp.wb3

Docket No. 2006-0517-MWD-E

PCW

Respondent Blacksher Development Corporation

Policy Revision 2 (September 2002)

Case ID No. 29281

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101263101

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

30 Tex. Admin. Code §§ 305.125(5), and 317.7(e), and TPDES Permit No. 13691001 Operational Requirements No. 1

Failure to properly secure the wastewater treatment plant. As documented during the February 10, 2006 investigation, the fence along the northern side of the wastewater treatment plant was down.

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes Human health or the environments could or will be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	daily	<input type="text"/>
	monthly	<input type="text"/>
mark only one	quarterly	<input checked="" type="text" value="X"/>
use a small x	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the investigation date (February 10, 2006) to the compliance date (April 3, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	10-Feb-2006	03-Apr-2006	0.1	\$0	\$9	\$10
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to replace the current Facility fencing. 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)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$1,000** **TOTAL** **\$10**

corp.wb3

Screening Date 04-May-2006 **Docket No.** 2006-0517-MWD-E **PCW**

Respondent Blacksher Development Corporation *Policy Revision 2 (September 2002)*

Case ID No. 29281 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101263101

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	20-Aug-2004	03-Mar-2006	1.5	\$0	\$5	\$5
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to prepare the DMRs, make copies, and submit the originals to the TCEQ. The date required is the date that the July 2004 DMR was due, the final date is the date that the DMRs were submitted to the TCEQ.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date 04-May-2006 corp.wb3 **Docket No.** 2006-0517-MWD-E **PCW**
Respondent Blacksher Development Corporation *Policy Revision 2 (September 2002)*
Case ID No. 29281 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
Enf. Coordinator Pamela Campbell
Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)

Violation Description

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
 Case ID No. 29281
 Reg. Ent. Reference No. RN101263101
 Media [Statute] Water Quality
 Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	\$25	10-Feb-2006	03-Apr-2006	0.1	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$75	10-Feb-2006	12-Apr-2006	0.2	\$1	n/a	\$1
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: This is the estimated cost to purchase the chemicals to perform manganese interference correction and to properly clean and sterilize the sample test cell. The date required is the investigation date and the final date is the compliance date.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance TOTAL

Screening Date 04-May-2006 ^{corp.wb3} Docket No. 2006-0517-MWD-E PCW

Respondent Blacksher Development Corporation Policy Revision 2 (September 2002)

Case ID No. 29281 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101263101

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number 11

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

30 Tex. Admin. Code § 305.125(1), TPDES Permit No. 13691001 Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Failure to comply with its permitted effluent limits as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

A simplified model was utilized to evaluate the values for biochemical oxygen demand and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment. Total suspended solids were also evaluated.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 3

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,796

This violation Final Assessed Penalty (adjusted for limits) \$4,796

Economic Benefit Worksheet

Respondent Blacksher Development Corporation
Case ID No. 29281
Reg. Ent. Reference No. RN101263101
Media [Statute] Water Quality
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs See economic benefit for violation no. 1.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0 **TOTAL** \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600640304 Blacksher Development Corporation	Classification: AVERAGE	Rating: 4.65
Regulated Entity:	RN101263101 WATERWOOD ESTATES	Classification: AVERAGE	Site Rating: 6.30
ID Number(s):	WASTEWATER PERMIT WASTEWATER PERMIT	WQ0013691001 TPDES0113751	
Location:	3900 FT NW OF INTERSECTION OF HWY 62 AND HWY 87, ORANGE COUNTY, TEXAS	Rating Date: 9/1/2005 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	May 02, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 02, 2001 to May 02, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Pamela Campbell	Phone:	512 239-4493

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|--|----------------------------|
| Effective Date: 05/10/2002 | ADMINORDER 2001-0744-MWD-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5) | |
| Rqmt Prov: Op Req 1 PERMIT | |
| Description: Failure to ensure that all systems of collection, treatment and disposal at the WWTP are properly operated and maintained. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5) | |
| Rqmt Prov: Op Req 1 PERMIT | |
| Description: Failure to ensure that all systems of collection, treatment, and disposal at the waste water treatment plant are properly operated and maintained. The aerobic digester was not being aerated and the blowers did not produce enough air. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 317 317.4(a)(5) | |
| Rqmt Prov: Op Req 4 PERMIT | |
| Description: Failure to have an alternative power source, backup generators, and/or retention capability. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 312, SubChapter A 312.4(b)(4) | |
| Rqmt Prov: RR, SIII, No. G PERMIT | |
| Description: Failure to submit the annual sludge reports for 1999 and 2000. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 309, SubChapter A 309.1(b) | |
| Rqmt Prov: ELMR Nos. 2 & 6 PERMIT | |
| Description: Failure to meet the minimum permitted effluent limits of 2.0 mg/l for DO and 1.0 mg/ for chlorine residual by discharging effluent containing 0.2 mg/l DO and <0.1 mg/l Cl2 based on samples taken on 4/12/01. | |
| Classification: Minor | |
| Citation: 30 TAC Chapter 290, SubChapter E 290.51(a)(3) | |
| Description: Failure to pay annual Public Health Service water system fees on time. | |

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1 12/23/2003	(258615)
2 06/24/2004	(365638)
3 06/24/2004	(365639)
4 06/24/2004	(365640)
5 08/04/2004	(283260)
6 06/24/2004	(365641)
7 06/24/2004	(365642)
8 06/24/2004	(365643)
9 06/24/2004	(365644)
10 08/16/2004	(365645)
11 06/24/2004	(365646)
12 08/16/2004	(365647)
13 06/24/2004	(365648)

14 01/23/2002 (228832)
 15 12/19/2001 (228831)
 16 08/16/2004 (365649)
 17 12/20/2001 (228830)
 18 06/24/2004 (365650)
 19 11/15/2002 (228829)
 20 11/07/2001 (228828)
 21 06/24/2004 (365651)
 22 10/01/2002 (228827)
 23 09/27/2001 (228826)
 24 06/24/2004 (365652)
 25 08/14/2001 (228825)
 26 06/24/2004 (365653)
 27 08/06/2002 (228824)
 28 06/24/2004 (365654)
 29 07/23/2001 (228823)
 30 06/24/2004 (365655)
 31 08/06/2002 (228822)
 32 06/24/2004 (365656)
 33 06/18/2001 (228821)
 34 06/24/2004 (365657)
 35 05/09/2002 (228820)
 36 05/17/2001 (228819)
 37 04/15/2002 (228818)
 38 03/15/2002 (228816)
 39 02/22/2002 (228814)
 40 08/06/2003 (147004)
 41 10/23/2003 (325039)
 42 05/12/2003 (36199)
 43 01/31/2003 (22563)

E.

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

Date: 01/31/2003 (365638)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003 (365640)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2004 (365645)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2005
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (365647)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2005
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2003 (365648)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2004 (365649)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2003 (365650)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2003 (365651)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 08/30/2005

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2002 (228829)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2005

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (22563)

Self Report? NO

Classification: Moderate

Rqmt Prov: OP IA

Description: Failure to discharge effluent that is compliant with permitted limitations

Self Report? NO

Classification: Minor

Rqmt Prov: OP IA

Description: Failure to have records readily available for review

Self Report? NO

Classification: Minor

Rqmt Prov: OP IA

Description: Failure to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO

Classification: Minor

Rqmt Prov: OP IA

Description: Failure to maintain complete records of monitoring activities

Self Report? NO

Classification: Moderate

Rqmt Prov: OP IA

Description: Failure to submit the annual sludge report

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OP IA

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO

Classification: Minor

Rqmt Prov: OP IA
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Rqmt Prov: OP IA
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OP IA

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 09/30/2003 (325039)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 09/16/2003 (151534)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.3[G]

Rqmt Prov: OP IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OP IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OP IA

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 01/13/2004 (259205)

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT IA

Description: Failure to prevent unauthorized discharges

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT IA

Description: Failure to report unauthorized discharges

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

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
AGAINST BLACKSHER
DEVELOPMENT CORPORATION;
RN101263101

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0517-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Blacksher Development Corporation ("Blacksher").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Blacksher owns and operates a wastewater treatment facility located 3900 feet northwest of the intersection of Highway 62 and Highway 87, Orange, Orange County, Texas (the "Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an inspection conducted on February 10, 2006, a TCEQ Beaumont Regional Office investigator documented that Blacksher:
 - a. failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Facility was not functioning properly and sludge had accumulated around the outfall pipe and on downed tree limbs in the receiving stream;

- b. failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Widgeon and Greenwig lift stations had inoperable alarms; the Greenwig lift station was equipped with only one pump and there was excessive grease in the wet well; and both lift stations were easily accessible with the fences and wet wells open;
- c. failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the wastewater treatment plant had only one operable blower;
- d. failed to submit noncompliance notifications to the TCEQ for effluent violations which deviated from the permitted effluent limitation by more than forty percent. Specifically, Blacksher failed to submit noncompliance notifications for violations that occurred in July 2004, October 2004, April 2005, June 2005, August 2005, October 2005, and December 2005;
- e. failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, there were patches of corrosion on the plant handrails, bar screen, side beams of the clarifier, and the outlet to the clarifier from the aeration basin. Additionally, some of the teeth on the sawtooth weir were broken;
- f. failed to timely submit the annual sludge report to the TCEQ by September 1st of each year. Specifically, Blacksher failed to submit the 2003, 2004, and 2005 annual sludge reports to the TCEQ by the required dates;
- g. failed to properly secure the wastewater treatment plant. Specifically, the fence along the northern side of the Facility was down;
- h. failed to timely submit discharge monitoring reports (“DMRs”) by the 20th day of the following month. Specifically, Blacksher failed to submit the July 2004 through June 2005 DMRs to the TCEQ by the required date. TCEQ Compliance Monitoring Section received the DMRs on March 3, 2006;
- i. failed to properly analyze effluent samples for total chlorine residual. Specifically, Blacksher was not using potassium iodide when performing the manganese correction, the DPD reagent expired in August 2000, the sample test cell was dirty, and manganese correction was not performed prior to March 2005; and
- j. failed to comply with its permitted effluent limits.

4. During an inspection conducted on February 15, 2006, a TCEQ Beaumont Regional Office investigator documented that Blacksher failed to submit noncompliance notification to the TCEQ for an unauthorized discharge from the Greenwig lift station that occurred on February 11, 2006. Specifically, Blacksher failed to submit noncompliance notification within 24 hours of discovering the unauthorized discharge. The noncompliance notification was submitted on February 14, 2006
5. Blacksher received notice of the violations on or about April 12, 2006.
6. The Executive Director recognizes that Blacksher has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. on February 14, 2006, Blacksher submitted noncompliance notification of the unauthorized discharge;
 - b. as of March 1, 2006, installed an operable pump was installed in the Greenwig lift station;
 - c. on March 3, 2006, Blacksher submitted the delinquent discharge monitoring reports ("DMRs");
 - d. on April 3, 2006, Blacksher submitted photographic documentation that the fencing at the Facility had been repaired;
 - e. as of April 3, 2006, obtained DPD and potassium iodide;
 - f. on April 4, 2006, Blacksher submitted copies of the annual sludge reports for 2003, 2004, and 2005;
 - g. as of April 4, 2006 submitted photographic documentation that the grease was removed from the Widgeon lift station and that the Greenwig and Widgeon lift stations were locked and equipped the Widgeon lift station with two operable pumps; and
 - h. as of April 12, 2006, cleaned the colorimeter sample cells with bleach to remove dirt.
7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of

Blacksher Development Corporation” (the “EDPRP”) in the TCEQ Chief Clerk’s office on March 30, 2007.

8. By letter dated March 30, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Blacksher with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Blacksher received notice of the EDPRP.
9. More than 20 days have elapsed since Blacksher received notice of the EDPRP, provided by the Executive Director. Blacksher failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Blacksher is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Blacksher failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5); TPDES Permit No. 13691001, Operation Requirements No. 1; and TEX. WATER CODE § 26.121(a).
3. As evidenced by Finding of Fact No. 3.b., Blacksher failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5); 317.3(b)(1); (b)(3); and (e)(5); TPDES Permit No. 13691001, Operation Requirements No. 1.
4. As evidenced by Finding of Fact No. 3.c., Blacksher failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(g)(4)(B)(iii); and TPDES Permit No. 13691001, Operation Requirements No. 1.
5. As evidenced by Finding of Fact No. 3.d., Blacksher failed to submit noncompliance notifications to the TCEQ for effluent violations which deviated from the permitted effluent limitation by more than forty percent, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 7(c).

6. As evidenced by Finding of Fact No. 3.e., Blacksher failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 13691001, Operation Requirements No. 1.
7. As evidenced by Finding of Fact No. 3.f., Blacksher failed to timely submit the annual sludge report to the TCEQ by September 1st of 2003, 2004, and 2005, in violation of 30 TEX. ADMIN. CODE § 305.125(11)(B) and TPDES Permit No. 13691001, Sludge Provisions Section III No. G.
8. As evidenced by Finding of Fact No. 3.g., Blacksher failed to properly secure the wastewater treatment plant, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.7(e); and TPDES Permit No. 13691001, Operation Requirements No. 1.
9. As evidenced by Finding of Fact No. 3.h., Blacksher failed to timely submit DMRs by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE § 319.7(d) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 1.
10. As evidenced by Finding of Fact No. 3.i., Blacksher failed to properly analyze effluent samples for total chlorine residual, in violation of 30 TEX. ADMIN. CODE § 319.11(c) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 2.
11. As evidenced by Finding of Fact No. 3.j., Blacksher failing to comply with its permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1); TPDES Permit No. 13691001, Effluent Limitations and Monitoring Requirements No. 1; and TEX. WATER CODE § 26.121(a).
12. As evidenced by Finding of Fact No. 3.k., Blacksher failed to submit noncompliance notification to the TCEQ for an unauthorized discharge from the Greenwig lift station that occurred on February 11, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(9)(A) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 7(a).
13. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Blacksher with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
14. As evidenced by Finding of Fact No. 9, Blacksher has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission

may enter a Default Order against Blacksher and assess the penalty recommended by the Executive Director.

15. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Blacksher for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
16. An administrative penalty in the amount of twenty-nine thousand five hundred seventy-seven dollars (\$29,577.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
17. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Blacksher is assessed an administrative penalty in the amount of twenty-nine thousand five hundred seventy-seven dollars (\$29,577.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Blacksher's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Blacksher Development Corporation; Docket No. 2006-0517-MWD-E" to:

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

2. Blacksher shall undertake the following technical requirements:

- a. Immediately after the effective date of this Order, Blacksher shall begin timely submitting noncompliance notifications for all unauthorized discharges from the Facility and effluent violations that deviate from the permit limit by more than 40% to the TCEQ Beaumont Regional Office orally or by facsimile within 24 hours of becoming aware of the noncompliance. Written submission of the noncompliance shall be submitted to the TCEQ Beaumont Regional Office and the TCEQ Enforcement Division within five working days of becoming aware of the noncompliance in accordance with 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. 13691001.
- b. Within 30 days after the effective date of this Order, Blacksher shall remove and properly dispose of all sludge and tree limbs in the receiving stream.
- c. Within 60 days after the effective date of this Order, Blacksher shall:
 - i. repair and/replace the corroded handrails, bar screen, side beams of the clarifier, and the outlet to the clarifier from the aeration basin, and the teeth on the sawtooth weir;
 - ii. replace and/or repair the inoperable blower at the Facility;
 - iii. install functional audiovisual alarms at the Widgeon and Greenwig lift stations;
 - iv. install an additional pump at the Greenwig lift station; and
 - v. develop and implement a plan and schedule for achieving compliance with the permitted effluent limitations contained in TPDES Permit No. 13691001. The plan shall include interim milestone dates with a deadline date of 180 days after the effective date of the Commission Order for completion. The plan and schedule shall be prepared by a Texas registered professional engineer and/or other qualified professional with expertise in the design and operation of industrial wastewater treatment facilities.
- d. Within 75 days after the effective date of this Order, Blacksher shall submit written certification of compliance with Ordering Provisions Nos. 2.a. through 2.c.v.
- e. Within 185 days after the effective date of the Commission Order, Blacksher shall submit written certification of compliance with permitted effluent limits in TPDES Permit No. 13691001.

- f. The written certification of compliance required by Ordering Provisions Nos. 2.d. and 2.e. shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine 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:

Acting Manager, Water Section
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Blacksher. Blacksher is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Blacksher fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Blacksher's failure to comply is not a violation of this Order. Blacksher

shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Blacksher shall notify the Executive Director within seven days after Blacksher becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Blacksher shall be made in writing to the Executive Director. Extensions are not effective until Blacksher receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Blacksher if the Executive Director determines that Blacksher has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ROBERT R. MOSLEY

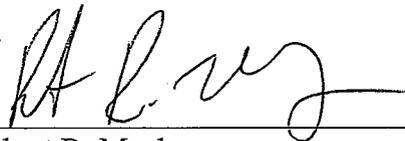
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Robert R. Mosley. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Blacksher Development Corporation” (the “EDPRP”) with the Office of the Chief Clerk on March 30, 2007.

I sent the EDPRP to Blacksher at its last known address on March 30, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

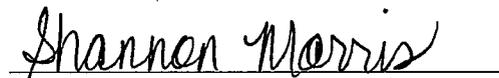
More than 20 days have elapsed since Blacksher received notice of the EDPRP. Blacksher failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



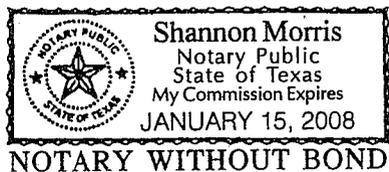
Robert R. Mosley
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Robert R. Mosley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 27th day of April, A.D., 2007.


Notary Signature

Notary Stamp



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST BLACKSHER
DEVELOPMENT CORPORATION;
RN101263101

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0517-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Blacksher Development Corporation ("Blacksher").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Blacksher owns and operates a wastewater treatment facility located 3900 feet northwest of the intersection of Highway 62 and Highway 87, Orange, Orange County, Texas (the "Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an inspection conducted on February 10, 2006, a TCEQ Beaumont Regional Office investigator documented that Blacksher:
 - a. failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Facility was not functioning properly and sludge had accumulated around the outfall pipe and on downed tree limbs in the receiving stream;

4. During an inspection conducted on February 15, 2006, a TCEQ Beaumont Regional Office investigator documented that Blacksher failed to submit noncompliance notification to the TCEQ for an unauthorized discharge from the Greenwig lift station that occurred on February 11, 2006. Specifically, Blacksher failed to submit noncompliance notification within 24 hours of discovering the unauthorized discharge. The noncompliance notification was submitted on February 14, 2006
5. Blacksher received notice of the violations on or about April 12, 2006.
6. The Executive Director recognizes that Blacksher has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. on February 14, 2006, Blacksher submitted noncompliance notification of the unauthorized discharge;
 - b. as of March 1, 2006, installed an operable pump was installed in the Greenwig lift station;
 - c. on March 3, 2006, Blacksher submitted the delinquent discharge monitoring reports ("DMRs");
 - d. on April 3, 2006, Blacksher submitted photographic documentation that the fencing at the Facility had been repaired;
 - e. as of April 3, 2006, obtained DPD and potassium iodide;
 - f. on April 4, 2006, Blacksher submitted copies of the annual sludge reports for 2003, 2004, and 2005;
 - g. as of April 4, 2006 submitted photographic documentation that the grease was removed from the Widgeon lift station and that the Greenwig and Widgeon lift stations were locked and equipped the Widgeon lift station with two operable pumps; and
 - h. as of April 12, 2006, cleaned the colorimeter sample cells with bleach to remove dirt.
7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of

6. As evidenced by Finding of Fact No. 3.e., Blacksher failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 13691001, Operation Requirements No. 1.
7. As evidenced by Finding of Fact No. 3.f., Blacksher failed to timely submit the annual sludge report to the TCEQ by September 1st of 2003, 2004, and 2005, in violation of 30 TEX. ADMIN. CODE § 305.125(11)(B) and TPDES Permit No. 13691001, Sludge Provisions Section III No. G.
8. As evidenced by Finding of Fact No. 3.g., Blacksher failed to properly secure the wastewater treatment plant, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.7(e); and TPDES Permit No. 13691001, Operation Requirements No. 1.
9. As evidenced by Finding of Fact No. 3.h., Blacksher failed to timely submit DMRs by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE § 319.7(d) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 1.
10. As evidenced by Finding of Fact No. 3.i., Blacksher failed to properly analyze effluent samples for total chlorine residual, in violation of 30 TEX. ADMIN. CODE § 319.11(c) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 2.
11. As evidenced by Finding of Fact No. 3.j., Blacksher failing to comply with its permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1); TPDES Permit No. 13691001, Effluent Limitations and Monitoring Requirements No. 1; and TEX. WATER CODE § 26.121(a).
12. As evidenced by Finding of Fact No. 3.k., Blacksher failed to submit noncompliance notification to the TCEQ for an unauthorized discharge from the Greenwig lift station that occurred on February 11, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(9)(A) and TPDES Permit No. 13691001, Monitoring and Reporting Requirements No. 7(a).
13. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Blacksher with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
14. As evidenced by Finding of Fact No. 9, Blacksher has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission

- a. Immediately after the effective date of this Order, Blacksher shall begin timely submitting noncompliance notifications for all unauthorized discharges from the Facility and effluent violations that deviate from the permit limit by more than 40% to the TCEQ Beaumont Regional Office orally or by facsimile within 24 hours of becoming aware of the noncompliance. Written submission of the noncompliance shall be submitted to the TCEQ Beaumont Regional Office and the TCEQ Enforcement Division within five working days of becoming aware of the noncompliance in accordance with 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. 13691001.
- b. Within 30 days after the effective date of this Order, Blacksher shall remove and properly dispose of all sludge and tree limbs in the receiving stream.
- c. Within 60 days after the effective date of this Order, Blacksher shall:
 - i. repair and/replace the corroded handrails, bar screen, side beams of the clarifier, and the outlet to the clarifier from the aeration basin, and the teeth on the sawtooth weir;
 - ii. replace and/or repair the inoperable blower at the Facility;
 - iii. install functional audiovisual alarms at the Widgeon and Greenwig lift stations;
 - iv. install an additional pump at the Greenwig lift station; and
 - v. develop and implement a plan and schedule for achieving compliance with the permitted effluent limitations contained in TPDES Permit No. 13691001. The plan shall include interim milestone dates with a deadline date of 180 days after the effective date of the Commission Order for completion. The plan and schedule shall be prepared by a Texas registered professional engineer and/or other qualified professional with expertise in the design and operation of industrial wastewater treatment facilities.
- d. Within 75 days after the effective date of this Order, Blacksher shall submit written certification of compliance with Ordering Provisions Nos. 2.a. through 2.c.v.
- e. Within 185 days after the effective date of the Commission Order, Blacksher shall submit written certification of compliance with permitted effluent limits in TPDES Permit No. 13691001.

shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Blacksher shall notify the Executive Director within seven days after Blacksher becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Blacksher shall be made in writing to the Executive Director. Extensions are not effective until Blacksher receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Blacksher if the Executive Director determines that Blacksher has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

AFFIDAVIT OF ROBERT R. MOSLEY

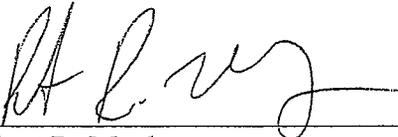
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Robert R. Mosley. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Blacksher Development Corporation” (the “EDPRP”) with the Office of the Chief Clerk on March 30, 2007.

I sent the EDPRP to Blacksher at its last known address on March 30, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

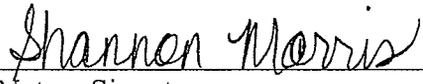
More than 20 days have elapsed since Blacksher received notice of the EDPRP. Blacksher failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Robert R. Mosley
Attorney
Texas Commission on Environmental Quality

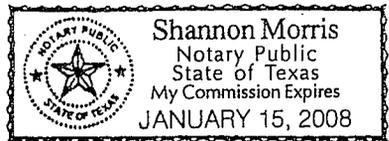
Before me, the undersigned authority, on this day personally appeared Robert R. Mosley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 27th day of April, A.D., 2007.



Notary Signature

Notary Stamp



NOTARY WITHOUT BOND