EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1709-MWD-E **TCEQ ID:** RN102077179 **CASE NO.:** 31189

RESPONDENT NAME: Stowaway Bay Property Owners Association

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	X WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Stowaway Bay Subdivision, located on the west side of Farm-to-Market Road ("FM") 3186, approximately two miles south of the intersection of State Highway 190 and FM 3186, Polk County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Enforcement Section I, MC R-12, (713) 767-3672; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Central Office Investigator: Ms. Mae Harper, Enforcement Division, Compliance Monitoring Section, MC 224, (512) 239-2547
Respondent: Mr. James Dunaway, President, Stowaway Bay Property Owners Association, P.O. Box 325, Onalaska, Texas 77360
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint ___ Routine ___ Enforcement Follow-up _x_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** July 6, 2006 **Date of NOE Relating to this Case:** August 18, 2006 (NOE) **Background Facts:** This was a routine record review. Two violations were documented. **WATER** 1) Failed to comply with permit effluent limits [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11779001, Final Effluent Limitation and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a)]. 2) Failed to provide monitoring results at the intervals specified in the permit. Specifically, the CBOD and the NH3-N parameters were not monitored for August 2005 and September 2005 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 11779001, Monitoring and Reporting Requirements No. 1].	**Total Assessed:** $6,600 **Total Deferred:** $1,320 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $5,280 **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that Stowaway Bay POA began monitoring carbonaceous biochemical oxygen demand ("CBOD") and ammonia-nitrogen ("NH3-N") as required by the final effluent monitoring permit requirements for the October 2005 monitoring and reporting period. **Ordering Provisions:** 2) The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. 11779001.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	21-Aug-2006				
PCW	28-Sep-2006	Screening	06-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Stowaway Bay Property Owners Association		
Reg. Ent. Ref. No.	RN102077179		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31189	No. of Violations	2
Docket No.	2006-1709-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 65% Enhancement *Subtotals 2, 3, & 7* $2,600

Notes: The respondent has one NOV for same or similar violations and 12 self-reported effluent violations at this facility during the last five years.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The respondent does not meet good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$4,936
Approx. Cost of Compliance	$37,225

SUM OF SUBTOTALS 1-7 Final Subtotal $6,600

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $6,600

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $6,600

DEFERRAL 20% Reduction Adjustment -$1,320

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $5,280

Screening Date	06-Sep-2006	**Docket No.** 2006-1709-MWD-E	**PCW**
Respondent	Stowaway Bay Property Owners Association		*Policy Revision 2 (September 2002)*
Case ID No.	31189		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN102077179		
Media [Statute]	Water Quality		
Enf. Coordinator	Catherine Albrecht		

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 *(number of NOVs meeting criteria)*	13	65%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **65%**

>> 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 has one NOV for same or similar violations and 12 self-reported effluent violations at this facility during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **65%**

PCW

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

Screening Date	06-Sep-2006
Docket No.	2006-1709-MWD-E
Respondent	Stowaway Bay Property Owners Association
Case ID No.	31189
Reg. Ent. Reference No.	RN102077179
Media [Statute]	Water Quality
Enf. Coordinator	Catherine Albrecht
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), TPDES Permit No. 11779001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and Tex. Water Code § 26.121(a)
Secondary Rule Cite(s)	
Violation Description	Failure to comply with permit effluent limits. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: A simplified model was use to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.

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

Estimated EB Amount $4,700

Statutory Limit Test

Violation Final Penalty Total $4,950

This violation Final Assessed Penalty (adjusted for limits) $4,950

Economic Benefit Worksheet

Respondent: Stowaway Bay Property Owners Association
Case ID No.: 31189
Reg. Ent. Reference No.: RN102077179
Media [Statute]: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	$25,000	01-Jul-2005	01-Jul-2007	2.0	$167	$3,333	$3,500
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)	$12,000	01-Jul-2005	01-Jul-2007	2.0	$1,200	n/a	$1,200

Notes for DELAYED costs: Estimated costs of additional inspection, monitoring, and operation and maintenance work based on $500 per month. Estimated costs of rehabilitation of the plant to ensure permit compliance is $25,000 and/or the work necessary to abandon the plant and connect to the Polk Co. FWSD No. 2 facility. Date required is the beginning of the violation period. Final date is the projected 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: $37,000

TOTAL: $4,700

Screening Date 06-Sep-2006 **Docket No.** 2006-1709-MWD-E **PCW**

Respondent Stowaway Bay Property Owners Association *Policy Revision 2 (September 2002)*

Case ID No. 31189 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102077179

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 11779001, Monitoring and Reporting Requirements No. 1

Secondary Rule Cite(s)

Violation Description Failure to provide monitoring results at the intervals specified in the permit. Specifically, the carbonaceous biochemical oxygen demand (CBOD) and the ammonia-nitrogen (NH3-N) parameters were not monitored for August 2005 and September 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failure to conducted the required monitoring could result in the exposure of a significant amount of contaminants which may not exceed levels protective of human health and the environment.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $236

Statutory Limit Test

Violation Final Penalty Total $1,650

This violation Final Assessed Penalty (adjusted for limits) $1,650

Economic Benefit Worksheet

Respondent	Stowaway Bay Property Owners Association
Case ID No.	31189
Reg. Ent. Reference No.	RN102077179
Media [Statute]	Water Quality
Violation No.	2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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							
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]	$225	01-Aug-2005	30-Sep-2005	1.0	$11	$225	$236
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated costs of monitoring effluent CBOD and NH3-N based on $25 per week. Date required is the beginning of the violation period. Final date is the end of the violation period.						

Approx. Cost of Compliance: $225

TOTAL: $236

Respondent: Stowaway Bay Property Owners Association
ID Number: RN102077179
Docket Number: 2006-1709-MWD-E
Enf. Coordinator: Catherine Albrecht

Corresponds to Violation Number: 1

OUTFALL 001 EFFLUENT PARAMETERS

Final Permit Limit

Month/Year	TSS Dly Avg Conc Limit of 15.0 (in mg/L)	TSS Single Grab Limit of 60.0 (in mg/L)	NH3-N Dly Avg Conc Limit of 3.0 (in mg/L)	CBOD Dly Avg Conc Limit of 10.0 (in mg/L)	TCR Minimum Limit of 1.0 (in mg/L)
Jul-05	c	c	c	c	0.9
Oct-05	c	c	7.9	c	c
Nov-05	16.0	c	10.1	12.5	c
Dec-05	38.9	c	5.2	10.9	c
Feb-06	43.3	112.0	c	c	c

Abbreviations:
Total Suspended Solids ("TSS")
Ammonia-Nitrogen ("NH3-N")
Carbonaceous Biochemical Oxygen Demand (five-day) ("CBOD")
Total Chlorine Residual ("TCR")
Concentration ("Conc")
milligrams per liter ("mg/L")
compliant ("c")

Compliance History

Customer/Respondent/Owner-Operator:	CN601121460	Stowaway Bay Property Owners Association	Classification: Average Rating: 0.93
Regulated Entity:	RN102077179	STOWAWAY BAY SUBDIVISION	Classification: Average Site Rating: 0.93
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT PERMIT LICENSE	WQ0011779001 TPDES0071293 WQ0011779001

Location: West side of Farm-to-Market Road (FM) 3186, approximately two miles south of the intersection of State Highway 190 and FM 3186, Polk County

Rating Date: 9/1/2006
Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: September 13, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 13, 2001 to September 13, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

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.
N/A

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 05/24/2002 (197478)
2 04/21/2003 (197475)
3 04/19/2002 (197474)
4 03/21/2003 (197471)
5 03/25/2002 (197470)
6 02/24/2003 (197468)
7 02/27/2002 (197467)
8 08/18/2006 (485690)
9 02/17/2006 (474998)
10 03/20/2006 (474999)
11 10/10/2005 (475000)
12 03/18/2005 (385614)
13 11/29/2004 (385615)
14 01/10/2005 (385616)
15 11/29/2005 (475001)
16 02/20/2004 (312077)
17 01/24/2005 (385617)
18 03/17/2004 (312078)
19 04/14/2006 (502613)
20 04/16/2004 (312079)
21 05/30/2006 (502614)
22 05/23/2003 (312080)
23 11/21/2005 (475002)
24 06/20/2003 (312081)
25 06/22/2006 (502615)
26 07/18/2003 (312082)
27 08/18/2003 (312083)
28 09/17/2003 (312084)
29 12/19/2005 (475003)
30 10/27/2003 (312085)

31 11/24/2003 (312086)
32 04/06/2006 (455022)
33 12/17/2003 (312087)
34 01/16/2004 (312088)
35 01/25/2006 (475004)
36 05/12/2005 (423609)
37 05/12/2005 (423610)
38 07/14/2005 (423611)
39 07/14/2005 (423612)
40 01/27/2003 (197502)
41 01/25/2002 (197501)
42 12/27/2002 (197499)
43 12/27/2001 (197498)
44 05/19/2004 (358933)
45 11/27/2002 (197496)
46 08/12/2004 (358934)
47 11/19/2001 (197495)
48 07/23/2004 (358935)
49 09/07/2004 (358936)
50 09/20/2004 (358937)
51 10/28/2002 (197493)
52 10/05/2004 (358938)
53 11/01/2001 (197492)
54 09/25/2002 (197490)
55 09/26/2001 (197489)
56 08/21/2002 (197487)
57 08/19/2005 (444409)
58 07/22/2002 (197484)
59 06/21/2002 (197481)

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

Date: 03/31/2003 (197475)
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: 02/28/2002 (197470)
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: 02/28/2006 (474999)
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: 12/31/2004 (385617)
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: 04/06/2006 (455022)
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure by the Stowaway Bay Property Owners Association to submit the 2005 annual sludge report.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to maintain operable lift station alarm systems.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to manage the solids inventory.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to properly maintain the clarifier
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: The facility discharges to the lake via a submerged pipe through a bulkhead wall. The lowered lake level exposed the discharge piping, which is situated under a dock owned by the SPOA..
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to submit a summary transmittal describing how the plant will meet final effluent limitations.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to meet permitted effluent limitations.

Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to conduct total chlorine residual at a frequency described by the permit.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Since the last CCI, conducted on 06/21/2001, the permittee reported one unauthorized discharge from the plant on 11/18/2004, as a result of power failure.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure by the Stowaway Bay Property Owners Association to employ an operator with the appropriate level of license.

Date: 04/30/2006 (502614)
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: 05/31/2003 (312081)
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 (475002)
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 (475003)
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 (475004)
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: 12/31/2002 (197502)
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: 07/31/2005 (444409)
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: 08/31/2002 (197490)
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

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
STOWAWAY BAY PROPERTY	§	**TEXAS COMMISSION ON**
OWNERS ASSOCIATION	§	
RN102077179	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1709-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Stowaway Bay Property Owners Association ("Stowaway Bay POA") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Stowaway Bay POA appear before the Commission and together stipulate that:

1. Stowaway Bay POA owns and operates a wastewater treatment facility located on the west side of Farm-to-Market Road ("FM") 3186, approximately two miles south of the intersection of State Highway 190 and FM 3186 in Polk County, Texas (the "Facility").

2. Stowaway Bay POA has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

3. The Commission and Stowaway Bay POA agree that the Commission has jurisdiction to enter this Agreed Order, and that Stowaway Bay POA is subject to the Commission's jurisdiction.

4. Stowaway Bay POA received notice of the violations alleged in Section II ("Allegations") on or about August 23, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Stowaway Bay POA of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Six Thousand Six Hundred Dollars ($6,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Stowaway Bay POA has paid Five Thousand Two Hundred Eighty Dollars ($5,280) of the administrative penalty and One Thousand Three Hundred Twenty Dollars ($1,320) is deferred contingent upon

Stowaway Bay POA's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Stowaway Bay POA fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Stowaway Bay POA to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Stowaway Bay POA have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Stowaway Bay POA began monitoring carbonaceous biochemical oxygen demand ("CBOD") and ammonia-nitrogen ("NH3-N") as required by the final effluent monitoring permit requirements for the October 2005 monitoring and reporting period.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Stowaway Bay POA has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

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

II. ALLEGATIONS

As owner and operator of the Facility, Stowaway Bay POA is alleged to have:

1. Failed to comply with permit effluent limits, as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11779001, Final Effluent Limitation and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on July 6, 2006:

Month/Year	TSS Dly Avg Conc Limit of 15.0 (in mg/L)	TSS Single Grab Limit of 60.0 (in mg/L)	NH3-N Dly Avg Conc Limit of 3.0 (in mg/L)	CBOD Dly Avg Conc Limit of 10.0 (in mg/L)	TCR Minimum Limit of 1.0 (in mg/L)
Jul-05	c	c	c	c	0.9
Oct-05	c	c	7.9	c	c
Nov-05	16.0	c	10.1	12.5	c
Dec-05	38.9	c	5.2	10.9	c
Feb-06	43.3	112.0	c	c	c

Abbreviations: Total Suspended Solids ("TSS"); Total Chlorine Residual ("TCR"); Concentration ("Conc"); milligrams per liter ("mg/L"); and compliant ("c")

2. Failed to provide monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 11779001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on July 6, 2006. Specifically, the CBOD and the NH3-N parameters were not monitored for August 2005 and September 2005.

III. DENIALS

Stowaway Bay POA generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Stowaway Bay POA pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Stowaway Bay POA's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Stowaway Bay Property Owners Association, Docket No. 2006-1709-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. It is further ordered that Stowaway Bay POA shall within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. 11779001. The certification 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:

Manager, Water Section
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

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

4. If Stowaway Bay POA fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Stowaway Bay POA's failure to comply is not a violation of this Agreed Order. Stowaway Bay POA shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Stowaway Bay POA shall notify the Executive Director within seven days after Stowaway Bay POA becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated

showing of good cause. All requests for extensions by Stowaway Bay POA shall be made in writing to the Executive Director. Extensions are not effective until Stowaway Bay POA receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Stowaway Bay POA, or three days after the date on which the Commission mails notice of the Order to Stowaway Bay POA, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 3/2/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

James Dunaway 11-28-06
Signature Date

James Dunaway President
Name (Printed or typed) Title
Authorized Representative of
Stowaway Bay Property Owners Association

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