

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2004-0677-MWD-E TCEQ ID NOS: RN101511400 AND RN101519981 CASE NO.: 15573

RESPONDENT NAME: ALGONQUIN WATER RESOURCES OF AMERICA DBA WOODMARK UTILITIES AND DBA TALL
TIMBERS STP

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input checked="" type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Woodmark Utilities located at Highway 346 and Tall Timbers STP located at 16459 Neighbors Road, Tyler, Smith County

TYPE OF OPERATION: Wastewater treatment plants

SMALL BUSINESS: ___ Yes No

OTHER SIGNIFICANT MATTERS: There are no previous complaints. There is no record of additional pending enforcement actions regarding these facility locations.

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 October 23, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713)422-8914; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Audra Ruble, Enforcement Division, Section III, MC R-14, (361) 825-3126

TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5175

Respondent: Mr. Charles Hernandez, Operations Manager, Algonquin Water Resources of America dba Woodmark Utilities and dba Tall Timbers STP, P.O. Box 3572, Carefree, Arizona 85377

Respondent's Attorney: Mr. Mark Zeppa, PC, Law Office of Mark Zeppa, PC, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436

**RESPONDENT'S NAME: ALGONQUIN WATER RESOURCES OF AMERICA DBA WOODMARK
 UTILITIES AND DBA TALL TIMBERS STP
 DOCKET NO.: 2004-0677-MWD-E**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Tall Timbers Facility:</p> <p>4) Failed to properly maintain the wastewater collection system in a manner to prevent infiltration. During the investigation it was noted that the Irish Meadows lift station possessed a steel mesh grate for the lid to the wet well. Additionally, the Respondent failed to properly install and maintain the primary flow measuring device [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13000-001, Operational Requirements Provision Nos. 1 and 5].</p> <p>5) Failed to ensure that all lift stations are intruder-resistant with controlled access. The lift stations at Gresham and Irish Meadows were not secure. Specifically, there were no fences around the lift stations to prevent intruders from entering the lift station grounds [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.3(a) and TPDES Permit No. 13000-001, Operational Requirements Provision No. 1].</p> <p>6) Failure to properly maintain the wastewater treatment facility's bar screen. The bar screen had been modified in a manner which, during the high flow conditions, allows large solids to pass through a large v-shaped hole cut into the bar screen [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(1) and TPDES Permit No. 13000-001, Operational Requirements Provision No. 1].</p> <p>7) Failed to prevent sludge from discharging from the wastewater treatment facility. Specifically, the investigator documented several areas where sludge had accumulated in the receiving stream. Sludge had been deposited intermittently in the receiving stream for a distance of approximately 150 feet from the point of effluent discharge [30 TEX. ADMIN. CODE § 305.125(1) and (5), TPDES Permit No. 13000-001, Permit Conditions 2.g. and TEX. WATER CODE § 26.121(a)].</p> <p>8) Failed to comply with the permit limits at the Tall Timbers site as shown in the Effluent Limit Violation Table [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 13000-001, Final Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>		

**RESPONDENT'S NAME: ALGONQUIN WATER RESOURCES OF AMERICA DBA WOODMARK
UTILITIES AND DBA TALL TIMBERS STP
DOCKET NO.: 2004-0677-MWD-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: March 2, 2004</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: April 15, 2004 (NOE)</p> <p>Background Facts: The Litigation Attorney mailed an Agreed Order to the Respondent on June 30, 2006. The signed Agreed Order was received on August 17, 2006.</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>Woodmark Facility:</p> <p>1) Failed to clean and remediate the area affected by the October 27, 2003 unauthorized discharge of wastewater from the Sandhill Lane lift station. On March 2, 2004, the investigator documented sewage material on the ground around the lift station [30 TEX. ADMIN. CODE § 305.125(4) & (5) and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to ensure that all lift stations are intruder-resistant with controlled access. The lift stations at Southern Trace, located on FM 2493, The Colony, located on Frederick Circle, Baker Plantation, located on Holcomb Circle, Vanderbilt, located on Vanderbilt Drive; Meadowview, located on Meadowview Lane; and Running Meadows, located on CR 172, were not secure. Specifically, there were no fences around the lift stations to prevent intruders from entering the lift station grounds.[30 TEX. ADMIN. CODE §§ 305.125(5) and 317.3(a) and TPDES Permit No. 13168-001, Operational Requirements Provision No. 1].</p> <p>3) Failed to properly maintain the wastewater collection system in a manner to prevent infiltration. During the investigation it was noted that the Cedar Valley lift station possessed a steel mesh grate for the lid to the wet well [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13168-001, Operational Requirements Provision No. 1].</p>	<p>Total Assessed: \$17,895</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid to General Revenue: \$17,895 (\$6,345 - Woodmark Facility; \$11,550 - Tall Timbers Facility)</p> <p>The Respondent has paid the \$17,895 administrative penalty in full.</p> <p>Site Compliance History Classifications: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classifications: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 1, 2002</p>	<p>Ordering Provisions:</p> <p>Woodmark Facility:</p> <p>1) Within 30 days:</p> <p>a) Remove and properly dispose of the sewage solids from the affected area of the October 27, 2003 unauthorized discharge at the Sandhill Lane lift station.</p> <p>b) Ensure that all facilities are intruder-resistant with controlled access. Specifically, ensure that the lift stations at Southern Trace, The Colony, Baker Plantation, Vanderbilt, Meadow View, and Running Meadows are secure.</p> <p>c) Upgrade the Cedar Valley lift station to eliminate infiltration and provide proper ventilation.</p> <p>Tall Timbers Facility:</p> <p>2) Within 30 days:</p> <p>a) Upgrade the Irish Meadows (large) lift station to eliminate infiltration and provide proper ventilation.</p> <p>b) Properly install and maintain in the primary flow measuring device.</p> <p>c) Ensure that all facilities are intruder-resistant with controlled access. Specifically, ensure that the lift stations at Gresham (small and large) and Irish Meadows (small) are secure.</p> <p>d) repair or replace the facility's bar screen.</p> <p>e) Remove and properly dispose of the sludge accumulations in the receiving stream.</p> <p>3) Within 45 days, submit written certification of compliance with Ordering Provisions 1.a-c. and 2.a-e. above.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

DATES		PCW 11-May-2004	Screening 13-May-2004	Priority Due 10-Sep-2004	EPA Due
RESPONDENT INFORMATION					
Respondent	Algonquin Water Resources of America dba Woodmark Utilities				
Respondent/Site ID No(s)	TPDES Permit No. 13168-001; Regulated Entity Reference No. RN101511400				
Facility/Site Region	5 - Tyler	Major/Minor Source	Minor		
CASE INFORMATION					
Enf./Case ID No(s)	Enforcement Case No. 15573		No. Violations	3	
Docket No.	2004-0677-MWD-E		Order Type	1660 without deferral	
Case Priority	3	Enf. Coordinator	EC's Team	Enforcement Team 1	
Media Program(s)	Water Quality				
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$4,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 41% Enhancement **Subtotals 2, 3 & 7** \$1,845

Notes: Enhancement due to Notices of Violation for non-similar violations issued November 22, 1999 and July 31, 2000, and a Notice of Violation for the same violations issued on January 15, 2004, as well as sixteen months of self-reported effluent violations. +

Culpability 0% Enhancement **Subtotal 4** \$0

Notes: No Select Yes/No
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			
None of the above	X	(mark with small x)	+

Notes: Respondent is not yet in compliance.

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

\$303	Total EB Amounts	*Capped at the Total EB \$ Amount	
\$3,500	Approx. Cost of Compliance		=

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$6,345

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 \$6,345

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$6,345

DEFERRAL Deferral 0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)
Notes: No deferral is offered due to an NOV issued on January 15, 2004 for the same violations. =

PAYABLE PENALTY \$6,345

Screening Date	13-May-2004	Docket Number	2004-0677-MWD-E	PCW
Respondent	Algonquin Water Resources of America dba Woodmark Utilities			Policy Revision 2 (09/02)
Case ID No.	Enforcement Case No. 15573			PCW Revision 2/10/2004
Respondent/Site ID No.	TPDES Permit No. 13168-001; Regulated Entity Reference No. RN101511400			
Media [Statute]	Water Quality			
Enf. Coordinator	Erika Fair			
Site Address	FM 346 and U.S. Highway 69, Tyler			

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>)	1	5%
	Other written NOVs	18	36%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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 (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	N	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	N	0%
	Participation in a voluntary pollution reduction program	N	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	N	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

 Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

 Adjustment Percentage (Subtotal 7)

Compliance History Summary

Compliance History Notes: Enhancement due to Notices of Violation for non-similar violations issued November 22, 1999 and July 31, 2000, and a Notice of Violation for the same violations issued on January 15, 2004, as well as sixteen months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3 & 7)

Screening Date	13-May-04	Docket Number	2004-0677-MWD-E	PCW
Respondent	Algonquin Water Resources of America dba Woodmark Utilities		Policy Revision 2 (09/02)	
Case ID No.	Enforcement Case No. 15573		PCW Revision 2/10/2004	
Respondent/Site ID No.	TPDES Permit No. 13168-001; Regulated Entity Reference No. RN101511400			
Media [Statute]	Water Quality			
Enf. Coordinator	Erika Fair			
Violation Number	1			
Primary Rule Cite	30 TAC § 305.125(4) & (5) and Tex. Water Code § 26.121(a)			
Secondary Cite(s)				
Violation Description	Failure to clean and remediate the area affected by the October 27, 2003 unauthorized discharge of wastewater from the Sandhill Lane lift station. On March 2, 2004, the investigator documented sewage material on the ground around the lift station.			
		Base Penalty	\$10,000	

» Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
<i>OR</i>	Actual			x
	Potential			
				Percent 10%
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
<i>OR</i>				
				Percent
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.			
		Adjustment	-\$9,000	
		Base Penalty Subtotal	\$1,000	

Violation Events				
	Number of Violation Events	1		
<i>mark only one; use small x</i>	daily			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
				Violation Base Penalty \$1,000
Events Notes	One quarterly event is recommended based on the March 2, 2004 date of investigation to the May 13, 2004 screening date.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$13	Violation Final Penalty total \$1,410
This Violation Final Assessed Penalty (adjusted for limits) \$1,410	

Economic Benefit Worksheet

Respondent: Algonquin Water Resources of America dba Woodmark Utilities
ID Number(s): Enforcement Case No. 15573
Media [Statute]: Water Quality
Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$200	27-Oct-2003	12-Feb-2005	1.3	\$13	n/a	\$13
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Approximate cost to remove the sewage waste and remediate the site.

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/equip				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 \$200

TOTAL \$13

Screening Date	13-May-04	Docket Number	2004-0677-MWD-E	PCW
Respondent	Algonquin Water Resources of America dba Woodmark Utilities		Policy Revision 2 (09/02)	
Case ID No.	Enforcement Case No. 15573		PCW Revision 2/10/2004.	
Respondent/Site ID No.	TPDES Permit No. 13168-001; Regulated Entity Reference No. RN101511400			
Media [Statute]	Water Quality			
Enf. Coordinator	Erika Fair			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite	30 TAC §§ 305.125(5) and 317.3(a)			
Secondary Cite(s)	TPDES Permit No. 13168-001, Operational Requirements, Provision No. 1			
Violation Description	Failure to ensure that all lift stations are intruder-resistant with controlled access. The lift stations at Southern Trace, located on FM 2493, The Colony, located on Frederick Circle, Baker Plantation, located on Holcomb Circle, Vanderbilt, located on Vanderbilt Drive, Meadow View, located on Meadow View Lane, and Running Meadows, located on CR 172, were not secure.			

Base Penalty

» Environmental Property and Human Health Matrix					
Harm					
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
» Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
OR	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Matrix Notes	Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.				
					Adjustment <input type="text" value="-\$9,500"/>
					Base Penalty Subtotal <input type="text" value="\$500"/>

Violation Events					
	Number of Violation Events	<input type="text" value="6"/>			
<i>mark only one; use small x</i>	daily	<input type="text"/>	<input type="text"/>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$3,000"/>
	monthly	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	quarterly	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	semiannual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	single event	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Events Notes	Six single events are recommended based on the six lift stations noted during the March 2, 2004 investigation.				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) <input type="text" value="\$285"/>	Violation Final Penalty total <input type="text" value="\$4,230"/>
This Violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,230"/>	

Economic Benefit Worksheet

Respondent: Algonquin Water Resources of America dba Woodmark Utilities
ID Number(s): Enforcement Case No. 15573
Media (Statute): Water Quality
Violation Number: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$3,250	12-Nov-2003	12-Feb-2005	1.3	\$14	\$272	\$285
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

Approximate cost to provide fences around the six lift stations.

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/equip				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 \$3,250

TOTAL \$285

Screening Date	13-May-04	Docket Number	2004-0677-MWD-E	PCW
Respondent	Algonquin Water Resources of America dba Woodmark Utilities			Policy Revision 2 (09/02)
Case ID No.	Enforcement Case No. 15573			PCW Revision 2/10/2004
Respondent/Site ID No.	TPDES Permit No. 13168-001; Regulated Entity Reference No. RN101511400			
Media [Statute]	Water Quality			
Enf. Coordinator	Erika Fair			
Violation Number	3			
Primary Rule Cite	30 TAC § 305.125(1) and TPDES Permit No. 13168-001, Operational Requirements, Provision 1			
Secondary Cite(s)				
Violation Description	Failure to properly maintain the wastewater collection system in a manner to prevent infiltration. During the investigation it was noted that the Cedar Valley lift station possessed a steel mesh grate for the lid to the wet well.			
Base Penalty	\$10,000			

» Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual			
	Potential			x
				Percent 5%
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
OR				
				Percent
Matrix Notes	Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.			
	Adjustment	-\$9,500		
	Base Penalty Subtotal	\$500		

Violation Events				
	Number of Violation Events	1		
<i>mark only one; use small x</i>	daily			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event			x
				Violation Base Penalty \$500
Events Notes	One single event is recommended based on the March 2, 2004 investigation date.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$4	Violation Final Penalty total \$705
This Violation Final Assessed Penalty (adjusted for limits) \$705	

Economic Benefit Worksheet

Respondent: Algonquin Water Resources of America dba Woodmark Utilities
ID Number(s): Enforcement Case No. 15573
Media [Statute]: Water Quality
Violation Number: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$50	12-Nov-2003	12-Feb-2005	1.3	\$0	\$4	\$4
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

Approximate cost to provide solid, sealed lids for the wet well at the lift station.

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/equip				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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

DATES

PCW 11-May-2004 Screening 13-May-2004 Priority Due 10-Sep-2004 EPA Due

RESPONDENT INFORMATION

Respondent Algonquin Water Resources of America dba Tall Timbers STP
Respondent/Site ID No(s) TPDES No. 13000-001; Regulated Entity Reference No. RN101519981
Facility/Site Region 5 - Tyler Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No(s) Enforcement Case No. 15573
Docket No. 2004-0677-MWD-E No. Violations 5
Case Priority 3 Order Type 1660 without deferral
Enf. Coordinator Erika Fair EC's Team Enforcement Team 1
Media Program(s) Water Quality
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$7,000

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 \$4,550

Notes Enhancement due to Notice of Violations issued September 22, 2000 and January 15, 2004 for the same or similar violations. In addition eleven months of effluent violations were documented at this facility location.

Culpability 0% Enhancement Subtotal 4 \$0

Notes No Respondent does not meet culpability criteria.

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

Notes Respondent is not yet in compliance.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

\$687 Total EB Amounts *Capped at the Total EB \$ Amount
\$4,500 Approx. Cost of Compliance =

SUM OF SUBTOTALS 1-7 Final Subtotal \$11,550

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 \$11,550

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$11,550

DEFERRAL Deferral 0% Reduction Adjustment \$0

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

Notes No deferral is offered due to an NOV issued on January 15, 2004 for the same violations. =

PAYABLE PENALTY \$11,550

Respondent Algonquin Water Resources of America dba Tall Timbers STP

Policy Revision 2 (09/02)

Case ID No. Enforcement Case No. 15573

PCW Revision 2/10/2004

Respondent/Site ID No. TPDES No. 13000-001; Regulated Entity Reference No. RN101519981

Media [Statute] Water Quality

Enf. Coordinator Erika Fair

Site Address

16459 Neighbors Road, Tyler

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 submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more	N	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	N	0%
	Participation in a voluntary pollution reduction program	N	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	N	0%

Adjustment Percentage (Subtotal 2) 65%

>> Repeat Violator (Subtotal 3)

No Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes: Enhancement due to Notice of Violations issued September 22, 2000 and January 15, 2004 for the same or similar violations. In addition eleven months of effluent violations were documented at this facility location.

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

Screening Date 13-May-04

Docket Number 2004-0677-MWD-E

PCW

Respondent Algonquin Water Resources of America dba Tall Timbers STP

Policy Revision 2 (09/02)

Case ID No. Enforcement Case No. 15573

PCW Revision 2/10/2004

Respondent/Site ID No. TPDES No. 13000-001; Regulated Entity Reference No. RN101519981

Media [Statute] Water Quality

Enf. Coordinator Erika Fair

Violation Number

1

Primary Rule Cite

30 TAC § 305.125(1) and TPDES Permit No. 13000-001, Operational Requirements, Provisions 1 and 5

Secondary Cite(s)

Violation Description

Failure to properly maintain the wastewater collection system in a manner to prevent infiltration. During the investigation it was noted that the Irish Meadows (large) lift station possessed a steel mesh grate for the lid to the wet well. Additionally, the Respondent failed to properly install and maintain the primary flow measuring device.

Base Penalty

\$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			x

Percent

5%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

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

Adjustment

-\$9,500

Base Penalty Subtotal

\$500

Violation Events

Number of Violation Events

1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty

\$500

Events Notes

One single event is recommended based on the March 2, 2004 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$)

\$48

Violation Final Penalty total

\$825

This Violation Final Assessed Penalty (adjusted for limits)

\$825

Economic Benefit Worksheet

Respondent: Algonquin Water Resources of America dba Tall Timbers STP
ID Number(s): Enforcement Case No. 15573
Media [Statute]: Water Quality
Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$550	12-Nov-2003	12-Feb-2005	1.3	\$2	\$46	\$48
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

Approximate cost to provide a solid, sealed lid for the wet well at the lift station, and to install a flow measuring device.

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/equip				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 13-May-04

Docket Number 2004-0677-MWD-E

PCW

Respondent Algonquin Water Resources of America dba Tall Timbers STP

Policy Revision 2 (09/02)

Case ID No. Enforcement Case No. 15573

PCW Revision 2/10/2004

Respondent/Site ID No. TPDES No. 13000-001; Regulated Entity Reference No. RN101519981

Media [Statute] Water Quality

Enf. Coordinator Erika Fair

Violation Number

2

Primary Rule Cite

30 TAC §§ 305.125(5) and 317.3(a)

Secondary Cite(s)

TPDES Permit No. 13000-001, Operational Requirements, Provision No. 1

Violation Description

Failure to ensure that all lift stations are intruder-resistant with controlled access. The lift stations at Gresham (small & large); and Irish Meadows (small) were not secure.

Base Penalty

\$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			X

OR

Percent 5%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

OR

Percent

Matrix Notes

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

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 3

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,500

Events Notes

Three single events are recommended based on the three lift stations noted in the March 2, 2004 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$132

Violation Final Penalty total \$2,475

This Violation Final Assessed Penalty (adjusted for limits) \$2,475

Economic Benefit Worksheet

Respondent Algonquin Water Resources of America dba Tall Timbers STP
ID Number(s) Enforcement Case No. 15573
Media [Statute] Water Quality
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,500	12-Nov-2003	12-Feb-2005	1.3	\$6	\$125	\$132
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

Approximate cost to provide fences around the three lift stations.

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/equip				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 13-May-04

Docket Number 2004-0677-MWD-E

PCW

Respondent Algonquin Water Resources of America dba Tall Timbers STP

Policy Revision 2 (09/02)

Case ID No. Enforcement Case No. 15573

PCW Revision 2/10/2004

Respondent/Site ID No. TPDES No. 13000-001; Regulated Entity Reference No. RN101519981

Media [Statute] Water Quality

Enf. Coordinator Erika Fair

Violation Number 3

Primary Rule Cite 30 TAC §§ 305.125(5) & 317.4(b)(1)

Secondary Cite(s) TPDES Permit No. 13000-001, Operational Requirements, Provision No. 1

Violation Description Failure to properly maintain the wastewater treatment facility's bar screen. The bar screen had been modified in a manner which, during high flow conditions, allows large solids to pass through a large v-shaped hole cut into the bar screen.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			x	

» Programmatic Matrix

OR	Falsification	Major	Moderate	Minor	Percent

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

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

Events Notes One single event is recommended based on the March 2, 2004 investigation date.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$18

Violation Final Penalty total \$825

This Violation Final Assessed Penalty (adjusted for limits) \$825

Economic Benefit Worksheet

Respondent Algonquin Water Resources of America dba Tall Timbers STP
ID Number(s) Enforcement Case No. 15573
Media [Statute] Water Quality
Violation Number 3

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
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$200	12-Nov-2003	12-Feb-2005	1.3	\$1	\$17	\$18
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

Approximate cost to provide an adequate bar screen at the Tall Timbers plant.

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/equip				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 13-May-04

Docket Number 2004-0677-MWD-E

PCW

Respondent Algonquin Water Resources of America dba Tall Timbers STP

Policy Revision 2 (09/02)

Case ID No. Enforcement Case No. 15573

PCW Revision 2/10/2004

Respondent/Site ID No. TPDES No. 13000-001; Regulated Entity Reference No. RN101519981

Media [Statute] Water Quality

Enf. Coordinator Erika Fair

Violation Number 4

Primary Rule Cite

30 TAC § 305.125(1), (4) and (5), TPDES Permit No. 13000-001, Permit Conditions, 2.g., and Tex. Water Code § 26.121(a)

Secondary Cite(s)

Violation Description

Failure to prevent sludge from discharging from the wastewater treatment facility. Specifically, the investigator documented several areas where sludge had accumulated in the receiving stream. Sludge had been deposited intermittently in the receiving stream for a distance of approximately 150 feet from the point of effluent discharge.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to prevent the unauthorized discharge of sludge has exposed human health or the environment to a significant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Events Notes

One quarterly event is recommended based on the March 2, 2004 investigation date to the screening date of May 13, 2004 to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$94

Violation Final Penalty total \$4,125

This Violation Final Assessed Penalty (adjusted for limits) \$4,125

Economic Benefit Worksheet

Respondent: Algonquin Water Resources of America dba Tall Timbers STP
ID Number(s): Enforcement Case No. 15573
Media [Statute]: Water Quality
Violation Number: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$1,500	12-Nov-2003	12-Feb-2005	1.3	\$94	n/a	\$94
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove the sludge from the receiving stream.

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/equip				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 13-May-04

Docket Number 2004-0677-MWD-E

PCW

Respondent Algonquin Water Resources of America dba Tall Timbers STP

Policy Revision 2 (09/02)

Case ID No. Enforcement Case No. 15573

PCW Revision 2/10/2004

Respondent/Site ID No. TPDES No. 13000-001; Regulated Entity Reference No. RN101519981

Media [Statute] Water Quality

Enf. Coordinator Erika Fair

Violation Number 5

Primary Rule Cite TPDES Permit No. 13000-001 Final Effluent Limitations and Monitoring Requirements No. 1 and Tex. Water Code § 26.121(a)

Secondary Cite(s) 30 Tex. Admin. Code § 305.125(1)

Violation Description Respondent failed to comply with permit limits at the Tall Timbers site as shown in the Effluent Limit Violation Table attached.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

OR	Release	Major	Moderate	Minor	Percent
	Actual			x	
Potential					

» Programmatic Matrix

OR	Falsification	Major	Moderate	Minor	Percent

Matrix Notes

A simplified model was utilized to evaluate the values of Ammonia Nitrogen ("NH3-N") to determine whether the discharged amounts of pollutants exceed levels that are protective of human health and the environment. The NH3-N discharged at the time of the violations was insignificant and did not exceed levels that are protective of human health and the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Events Notes

Two quarterly events are recommended based on the violation months of March 2003, July 2003 and August 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$395

Violation Final Penalty total \$3,300

This Violation Final Assessed Penalty (adjusted for limits) \$3,300

Economic Benefit Worksheet

Respondent: Algonquin Water Resources of America dba Tall Timbers STP

ID Number(s): Enforcement Case No. 15573

Media [Statute]: Water Quality

Violation Number: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$750	1-Mar-2003	31-Aug-2003	0.5	\$19	\$376	\$395
Supplies/equip				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

Estimated cost for additional oversight and sampling which might have reduced or alleviated the exceedances.

Approx Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN601552292 Algonquin Water Resources Of Classification: AVERAGE Rating: 1.010
America, Inc.

Regulated Entity: RN101519981 TALL TIMBERS STP Classification: AVERAGE Site Rating: 0.77
ID Number(s):

WASTEWATER LICENSING	LICENSE	WQ0013000001
WASTEWATER	PERMIT	TPDES0101010
WASTEWATER	PERMIT	WQ0013000001

Location: 16459 NEIGHBORS RD, TYLER, TX, 75703 Rating Date: 9/1/03 Repeat Violator: NO

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: May 17, 2004

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 17, 1999 to May 17, 2004

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Erika Fair Phone: (512) 239-6673

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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. 09/22/2000 (247507)
2. 01/31/2003 (220033)
3. 01/22/2002 (220032)
4. 05/17/2001 (39233)
5. 01/12/2001 (220031)

6. 12/15/2001 (220030)
7. 12/19/2000 (220029)
8. 04/16/2004 (265118)
9. 12/02/2002 (220028)
10. 11/19/2001 (220027)
11. 11/17/2000 (220026)
12. 10/19/2001 (220025)
13. 10/23/2000 (220024)
14. 09/13/2002 (220023)
15. 09/14/2001 (220022)
16. 10/18/2002 (220021)
17. 09/18/2000 (220020)
18. 08/23/2002 (220019)
19. 08/17/2001 (220018)
20. 08/21/2000 (220017)
21. 07/18/2002 (220016)
22. 07/13/2001 (220015)
23. 06/20/2002 (220014)
24. 06/15/2001 (220013)
25. 06/16/2000 (220012)
26. 05/16/2002 (220011)
27. 05/24/2001 (220010)
28. 05/22/2000 (220009)
29. 04/17/2002 (220008)
30. 04/18/2001 (220007)
31. 04/11/2003 (31225)
32. 03/18/2002 (220006)
33. 03/16/2001 (220005)
34. 02/15/2002 (220004)
35. 02/20/2001 (220003)

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

1. Date: 09/22/2000 (247507)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
2. Date: 01/15/2004 (257543)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IA
 Description: Failure to properly maintain the wastewater collection system in a manner to prevent infiltration.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.3[G]
 Rqmt Prov: PERMIT IA
 Description: Failure to ensure all lift stations are intruder-resistant with a controlled access.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(b)(1)
 Rqmt Prov: PERMIT IA

Description: Failure to properly maintain the wastewater treatment facility's bar screen.

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT IA

Description: Failure to maintain a chlorine residual between 1.0-4.0 mg/L in the effluent.

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT IA

Description: Failure to properly install and maintain the primary flow measuring device.

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to comply with the Final Effluent Limitations and Monitoring Requirements specified in TPDES Permit No. 13000-001 for the self-reporting months of March, July and August 2003.

Self Report? NO Classification: Moderate

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

Rqmt Prov: PERMIT IA

Description: Failure to prevent sludge from discharging from the wastewater treatment facility.

3. Date: 07/31/2002 (220019)

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

4. Date: 05/31/2002 (220014)

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

5. Date: 04/30/2002 (220011)

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

6. Date: 03/31/2002 (220008)

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

7. Date: 03/31/2001 (220007)

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

8. Date: 02/28/2002 (220006)

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

9. Date: 01/31/2002 (220004)

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

10. Date: 01/31/2001 (220003)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
11. Date: 03/31/2003
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
12. Date: 07/31/2003
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
13. Date: 08/31/2003
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

Compliance History

Customer/Respondent/Owner-Operator: CN601552292 Algonquin Water Resources Of America, Inc. Classification: AVERAGE Rating: 1.010

Regulated Entity: RN101511400 WOODMARK UTIL Classification: AVERAGE Site Rating: 1.25
ID Number(s):

WASTEWATER LICENSING	LICENSE	WQ0013168001
WASTEWATER	PERMIT	TPDES0098795
WASTEWATER	PERMIT	WQ0013168001

Location: HWY 346, TYLER, TX, 75713 Rating Date: 9/1/03 Repeat Violator: NO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: May 17, 2004
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 17, 1999 to May 17, 2004

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Erika Fair Phone: (512) 239-6673

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 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. 05/30/2002 (IE0018258001001)
2. 11/22/1999 (142008)
3. 01/31/2000 (218597)
4. 04/11/2003 (31664)
5. 01/31/2003 (218596)
6. 02/13/2002 (218595)

7. 02/12/2001 (218594)
8. 01/05/2000 (218593)
9. 12/30/2002 (218592)
10. 01/07/2002 (218591)
11. 02/12/2001 (218590)
12. 12/06/1999 (218589)
13. 12/06/2001 (218588)
14. 12/11/2000 (218587)
15. 11/27/2002 (218586)
16. 08/30/2000 (218585)
17. 10/28/2002 (218584)
18. 11/01/2001 (218583)
19. 11/20/2000 (218582)
20. 09/16/2002 (218581)
21. 09/20/2001 (218580)
22. 07/31/2000 (247491)
23. 10/30/2000 (218579)
24. 01/04/2001 (38446)
25. 09/19/2002 (218578)
26. 09/04/2001 (218577)
27. 10/02/2000 (218576)
28. 07/29/2002 (218575)
29. 08/01/2001 (218574)
30. 08/21/2000 (218573)
31. 07/18/2002 (218572)
32. 07/09/2001 (218571)
33. 08/07/2000 (218570)
34. 04/16/2004 (264909)
35. 05/24/2002 (218569)
36. 05/23/2001 (218568)
37. 06/20/2000 (218567)
38. 04/30/2003 (218566)
39. 04/26/2002 (218565)
40. 04/20/2001 (218564)
41. 05/30/2000 (218563)
42. 04/13/2000 (218562)
43. 03/17/2003 (218561)
44. 03/25/2002 (218560)
45. 04/06/2001 (218559)
46. 02/19/2002 (218558)
47. 04/06/2001 (218557)
48. 03/03/2000 (218556)
49. 01/12/2004 (000000000257108)

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

1. Date: 11/22/1999 (142008)

Self Report? NO

Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(18)

Description: FAILURE TO SUBMIT SLUDGE MONITORING REPORT.

2. Date: 12/31/2001 (218595)
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
3. Date: 11/30/2001 (218591)
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
4. Date: 10/31/2001 (218588)
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
5. Date: 09/30/2001 (218583)
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
6. Date: 07/31/2000 (247491)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
7. Date: 08/31/2001 (218580)
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
8. Date: 07/31/2001 (218577)
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
9. Date: 07/31/2000 (218576)
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
10. Date: 06/30/2002 (218575)
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
11. Date: 06/30/2001 (218574)
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
12. Date: 05/31/2001 (218571)
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
13. Date: 04/30/2001 (218568)
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
14. Date: 03/31/2003 (218566)
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
15. Date: 03/31/2001 (218564)
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
16. Date: 02/28/2002 (218560)
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
17. Date: 02/28/2001 (218559)
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
18. Date: 01/31/2002 (218558)
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
19. Date: 01/15/2004 (257108)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)[G]
Rqmt Prov: PERMIT IA
Description: Failure to submit noncompliance notification for the October 27, 2003, unauthorized discharge of wastewater from the Sandhill Lane lift station:
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT IA
Description: Failure to clean and remediate the area effected by the October 27, 2003, unauthorized discharge of wastewater from the Sandhill Lane lift station.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT IA

Description: Failure to comply with the Final Effluent Limitations and Monitoring Requirements specified in TPDES Permit No. 13168-001 for the self-reporting months of March, April, May, July, August and September 2003.

Self Report? NO

Classification: Moderate

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

30 TAC Chapter 317 317.3[G]

Rqmt Prov: PERMIT IA

Description: Failure to ensure all lift stations are intruder-resistant with a controlled access.

Self Report? NO

Classification: Minor

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

Rqmt Prov: PERMIT IA

Description: Failure to properly maintain the wastewater collection system in a manner to prevent infiltration.

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
ENFORCEMENT ACTION
CONCERNING
ALGONQUIN WATER
RESOURCES OF AMERICA, INC.
DBA WOODMARK UTILITIES
AND DBA
TALL TIMBERS STP
RN101511400 AND 101519981

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2004-0677-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Algonquin Water Resources of America, Inc. dba Woodmark Utilities and dba Tall Timbers STP ("Algonquin") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Algonquin represented by Mark Zeppa, Law Offices of Mark H. Zeppa, PC, appear before the Commission and together stipulate that:

1. Algonquin owns and operates two domestic wastewater treatment plants located at the following locations: Highway 346 in Tyler, Smith County, Texas (referred to as Woodmark Facility); 16459 Neighbors Road in Tyler, Smith County, Texas (referred to as Tall Timbers Facility). Referred to collectively as "the Facilities."
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26.
3. The Commission and Algonquin agree that the Commission has jurisdiction to enter this Agreed Order, and that Algonquin is subject to the Commission's jurisdiction.

4. Algonquin received notice of the violations for the Facilities on or about April 15, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Algonquin of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of six thousand three hundred forty-five dollars (\$6,345.00) for the violations at the Woodmark Facility and eleven thousand five hundred fifty dollars (\$11,550.00) for the violations at the Tall Timbers Facility, for a total penalty of seventeen thousand eight hundred ninety-five dollars (\$17,895.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Algonquin has paid seventeen thousand eight hundred ninety-five dollars (\$17,895.00) of the administrative 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 Algonquin have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Algonquin has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Algonquin is alleged to have violated the following requirements at the Woodmark Facility as documented during an investigation conducted by a TCEQ Tyler Regional Office investigator on March 2, 2004:

- a. 30 TEX. ADMIN. CODE § 305.125(4) & (5) and TEX. WATER CODE § 26.121(a) by failing to clean and remediate the area affected by the October 27, 2003 unauthorized discharge of wastewater from the Sandhill Lane lift station. On March 2, 2004, the investigator documented sewage material on the ground around the lift station.

- b. 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.3(a) and TPDES Permit No. 13168-001, Operational Requirements, Provision No. 1 by failing to ensure that all lift stations are intruder-resistant with controlled access. The lift stations at Southern Trace, located on FM 2493; The Colony, located on Frederick Circle; Baker Plantation, located on Holcomb Circle; Vanderbilt, located on Vanderbilt Drive; Meadow View, located on Meadow View Lane; and Running Meadows, located on CR 172, were not secure. Specifically, there were no fences around the lift stations to prevent intruders from entering the lift station grounds.
- c. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13168-001, Operational Requirements, Provision No. 1 by failing to properly maintain the wastewater collection system in a manner to prevent infiltration. During the investigation, it was noted that the Cedar Valley lift station possessed a steel mesh grate for the lid to the wet well.

Algonquin is alleged to have violated the following requirements at the Tall Timbers Facility as documented during an investigation conducted by a TCEQ Tyler Regional Office investigator on March 2, 2004:

- a. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13000-001, Operational Requirements, Provision Nos. 1 and 5 by failing to properly maintain the wastewater collection system in a manner to prevent infiltration. During the investigation it was noted that the Irish Meadows lift station possessed a steel mesh grate for the lid to the wet well. Additionally, Algonquin failed to properly install and maintain the primary flow measuring device.
- b. 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.3(a), and TPDES Permit No. 13000-001, Operational Requirements, Provision No. 1 by failing to ensure that all lift stations are intruder-resistant with controlled access. The lift stations at Gresham and Irish Meadows were not secure. Specifically, there were no fences around the lift stations to prevent intruders from entering the lift station grounds.
- c. 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(1) and TPDES Permit No. 13000-001, Operational Requirements, Provision No. 1 by failing to properly maintain the wastewater treatment facility's bar screen. The bar screen had been modified in a manner which, during the high flow conditions, allows large solids to pass through a large v-shaped hole cut into the bar screen.
- d. 30 TEX. ADMIN. CODE § 305.125(1) and (5), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 13000-001, Permit Conditions, 2.g. by failing to prevent sludge from discharging from the wastewater treatment facility. Specifically, the investigator documented several areas where sludge had accumulated in the receiving stream. Sludge had been deposited intermittently in the receiving stream for a distance of approximately 150 feet from the point of effluent discharge.

- e. 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 13000-001, Final Effluent Limitations and Monitoring Requirements No. 1 by failing to comply with the permit limits at the Tall Timbers site.

III. DENIALS

Algonquin generally denies each allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Algonquin pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Algonquin’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 considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re:Algonquin Water Resources of America, Inc. dba Woodmark Utilities and dba Tall Timbers STP, Docket No. 2004-0677-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. Algonquin shall undertake the following technical requirements:
 - a. At the Woodmark Facility:
 - i. Within 30 days of the effective date of this Agreed Order, remove and properly dispose of the sewage solids from the affected area of the October 27, 2003 unauthorized discharge at the Sandhill Lane lift station.
 - ii. Within 30 days of the effective date of this Agreed Order, ensure that all facilities are intruder-resistant with controlled access. Specifically, ensure that the lift stations at Southern Trace, The Colony, Baker Plantation, Vanderbilt,

Meadow View, and Running Meadows are secure, in accordance with 30 TEX. ADMIN CODE § 317.3(a).

- iii. Within 30 days of the effective date of this Agreed Order, upgrade the Cedar Valley lift station to eliminate infiltration and provide proper ventilation, in accordance with 30 TEX. ADMIN CODE § 305.125(1) and TPDES Permit No. 13168-001, Operational Requirements, Provision 1.
- b. At the Tall Timbers Facility:
- i. Within 30 days of the Commission Order, upgrade the Irish Meadows (large) lift station to eliminate infiltration and provide proper ventilation, in accordance with 30 TEX. ADMIN CODE § 305.125(1) and TPDES Permit No. 13000-001, Operational Requirements, Provision 1.
 - ii. Within 30 days of the effective date of the Commission Order, properly install and maintain the primary flow measuring device, in accordance with 30 TEX. ADMIN CODE § 305.125(1) and TPDES Permit No. 13000-001, Operational Requirements Provision 5.
 - iii. Within 30 days of the effective date of the Commission Order, ensure that all facilities are intruder-resistant with controlled access. Specifically, ensure that the lift stations at Gresham (small and large) and Irish Meadows (small) are secure, in accordance with 30 TEX. ADMIN CODE § 317.3(a).
 - iv. Within 30 days of the effective date of the Commission Order, repair or replace the facility's bar screen, in accordance with 30 TEX. ADMIN CODE § 317.4(b)(1).
 - v. Within 30 days of the effective date of the Commission Order, remove and properly dispose of the sludge accumulations in the receiving stream, in accordance with 30 TEX. ADMIN CODE § 305.125(1), (4) and (5).
- c. Within 45 days after the effective date of this Agreed Order submit written certification of compliance with Ordering Provisions 2.a. and 2.b. to:

Work Leader, Team 5, Section III
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Mr. Noel Luper, Manager
Water Section
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701

3. The provisions of this Agreed Order shall apply to and be binding upon Algonquin. Algonquin 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 Algonquin 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, Algonquin's failure to comply is not a violation of this Agreed Order. Algonquin shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Algonquin shall notify the Executive Director within seven days after Algonquin 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 Algonquin shall be made in writing to the Executive Director. Extensions are not effective until Algonquin 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 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Algonquin, or three days after the date on which the Commission mails notice of the Order to Algonquin, 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

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 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.

Robert Dade
Signature

Apr. 17/06
Date

Robert Dade
Name (Printed or typed)
Authorized representative of
Algonquin Water Resources of America, Inc.
dba Woodmark Utilities and dba Tall Timbers STP

President
Title

Robert Dade
For the Executive Director

10/9/06
Date