

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1179-MWD-E **TCEQ ID:** RN101511673 **CASE NO.:** 34209
RESPONDENT NAME: Hector Guzman

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Derrington Manufactured Home Community WWTP, located approximately 2,000 feet northwest of the intersection of Farm-to-Market Road ("FM") 563 and FM 770, adjacent to a county road and approximately nine miles southeast of Liberty, Liberty County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Hector Guzman, Owner, 3733 South Torrey Pines Drive, Las Vegas, Nevada 89103 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 12, 2007</p> <p>Date of NOV/NOE Relating to this Case: June 6, 2007 (NOE)</p> <p>Background Facts: This was an enforcement follow-up investigation.</p> <p>WATER</p> <p>1) Failure to submit an application to transfer the Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14026001 from the previous owner to the current owner of the facility [30 TEX. ADMIN. CODE § 305.64(b)].</p> <p>2) Failure to maintain authorization to discharge wastewater. Specifically, TPDES Permit No. 14026001 expired on February 1, 2007, and the Facility is still operating and discharging wastewater [30 TEX. ADMIN. CODE §§ 305.125(1) and 305.65, TPDES Permit No. 14026001, Permit Conditions No. 4.c., and TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$6,420</p> <p>Total Deferred: \$1,284 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,136</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. 14026001;</p> <p>b) Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application;</p> <p>c) Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing;</p> <p>d) Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. through c., as described in Ordering Provision f. below;</p> <p>e) Within 300 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision f.; and</p> <p>f) Written certification of compliance shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and shall be notarized by a State of Texas Notary Public.</p>

Additional ID No(s): WQ0014026001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	11-Jun-2007	Screening	25-Jun-2007	EPA Due	
	PCW	17-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Hector Guzman		
Reg. Ent. Ref. No.	RN101511673		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34209	No. of Violations	2	
Docket No.	2007-1179-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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 7% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

Notes

Total EB Amounts 0% Enhancement* Subtotal 6
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20% Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 25-Jun-2007

Docket No. 2007-1179-MWD-E

PCW

Respondent Hector Guzman

Policy Revision 2 (September 2002)

Case ID No. 34209

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101511673

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> 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 one NOV for other violations.

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

Screening Date 25-Jun-2007	Docket No. 2007-1179-MWD-E	PCW
Respondent Hector Guzman	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34209	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101511673		
Media [Statute] Water Quality		
Enf. Coordinator Catherine Albrecht		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 305.64(b)	
Violation Description	Failed to submit an application to transfer the TPDES Permit No. 14026001 from the previous owner to the current owner of the facility.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x	<input type="checkbox"/>	<input type="checkbox"/>	
					Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
single event	x	

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$1,070"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,070"/>	

Economic Benefit Worksheet

Respondent Hector Guzman
Case ID No. 34209
Reg. Ent. Reference No. RN101511673
Media Water Quality
Violation No. 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
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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

See economic benefit for violation 2.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 25-Jun-2007

Docket No. 2007-1179-MWD-E

PCW

Respondent Hector Guzman

Policy Revision 2 (September 2002)

Case ID No. 34209

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101511673

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 305.65, TPDES Permit No. 14026001, Permit Conditions No. 4.c., and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to maintain authorization to discharge wastewater. Specifically, TPDES Permit No. 14026001 expired on February 1, 2007, and the facility is still operating and discharging wastewater.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Five monthly events are recommended from the date the permit expired on February 1, 2007 to the screening date on June 25, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Hector Guzman
Case ID No. 34209
Reg. Ent. Reference No. RN101511673
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$5,000	1-Feb-2007	15-Mar-2008	1.1	\$279	n/a	\$279

Notes for DELAYED costs

Estimated costs of preparing and submitting a new permit application. Date required is the date the previous permit expired. 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

\$5,000

TOTAL

\$279

Compliance History

Customer/Respondent/Owner-Operator:	CN603199183	GUZMAN, HECTOR	Classification: AVERAGE Rating: 0.40
Regulated Entity:	RN101511673	DERRINGTON MANUFACTURED HOME COMMUNITY WWTP	Classification: AVERAGE Site Rating: 0.40
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER	PERMIT PERMIT PERMIT	WQ0014026001 TPDES0072516 TX0072516
Location:	Approximately 2,000 feet northwest of the intersection of Farm-to-Market Road (FM) 563 and FM 770, adjacent to a county road and approximately nine miles southeast of Liberty in Liberty County		Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	July 18, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 18, 2002 to July 18, 2007		
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? | Yes |
| 3. If Yes, who is the current owner? | Hector Guzman |
| 4. If Yes, who was/were the prior owner(s)? | Francy, Ltd. and Guzman & Martinez, Inc. |
| 5. When did the change(s) in ownership occur? | April 30, 2006 |

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 07/31/2002 (198836)
- 2 09/11/2002 (198839)
- 3 10/14/2002 (198842)
- 4 10/30/2002 (198845)
- 5 11/25/2002 (198847)
- 6 01/15/2003 (198851)
- 7 02/10/2003 (198855)
- 8 04/30/2003 (198827)
- 9 06/20/2003 (359144)
- 10 06/30/2003 (312597)
- 11 07/23/2003 (312598)
- 12 07/30/2003 (119498)
- 13 09/02/2003 (359148)
- 14 09/03/2003 (152940)
- 15 09/19/2003 (312599)
- 16 10/30/2003 (312600)
- 17 11/26/2003 (312601)
- 18 12/29/2003 (312602)
- 19 02/04/2004 (312603)
- 20 03/01/2004 (312594)
- 21 03/30/2004 (312595)
- 22 05/03/2004 (312596)
- 23 05/28/2004 (359145)
- 24 06/24/2004 (359146)
- 25 08/02/2004 (359147)
- 26 08/25/2004 (359149)
- 27 09/24/2004 (359150)
- 28 11/03/2004 (385782)
- 29 12/03/2004 (385783)
- 30 01/26/2005 (385785)
- 31 02/07/2005 (385784)

32 02/28/2005 (385780)
33 03/30/2005 (385781)
34 05/06/2005 (423725)
35 06/15/2005 (423726)
36 07/18/2005 (423727)
37 08/05/2005 (444524)
38 08/22/2006 (486417)
39 06/06/2007 (541895)

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

Date: 07/29/2003 (119498)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: An annual test report for the potable water supply line backflow preventer was not provided for review. The backflow preventer was leaking at the time of the investigation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.7(e)

Description: The fence surrounding the wastewater treatment plant was not intruder resistant.

Date: 08/22/2006 (486417)

Self Report? NO Classification: Minor

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

30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(g)(4)(B)[G]

Rqmt Prov: PERMIT Operational Req. No. 1

Description: Failure to operate and maintain the mechanical aeration system. Specifically, the second, operable blower was not provided for backup to the primary blower.

Self Report? NO Classification: Minor

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

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT Operational Req. No. 1

Description: Failure to adequately operate and maintain the facility. Specifically, excessive amounts of sludge was allowed to accumulate in the chlorine contact basin and clarifier.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter D 305.64(b)[G]

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT Permit Condition No. 5

Description: Failure to obtain authorization to operate and discharge wastewater from the facility. Specifically, the current owner failed to have the permit transferred into his name on or before obtaining ownership of the facility.

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT EL&MR No. 2

Description: Failure to maintain compliance with the permitted effluent limits for chlorine residual. Specifically, a grab sample collected during the investigation was not compliant for total residual chlorine with a measured value of 0.57 mg/L.

Self Report? NO Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT Operational Req. No. 1

Description: Failure to properly maintain the required flow measurement devices. Specifically, the v-notch was broken and the staff gauge numbers were not legible.

Self Report? NO Classification: Moderate

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

30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: PERMIT M&RR No. 3.b.

Description: Failure to provide operator logs, calibration and certification records, laboratory test results, sludge disposal records, and discharge monitoring reports for review during the previous investigation conducted on July 12, 2006.

Self Report? NO Classification: Moderate

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

30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: PERMIT M&RR No. 1

Description: Failure to submit Discharge Monitoring Reports (DMRs) from July 2005 through January 2007.

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
HECTOR GUZMAN
RN101511673

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1179-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 Hector Guzman ("Mr. Guzman") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Guzman appear before the Commission and together stipulate that:

1. Mr. Guzman owns and operates a wastewater treatment facility located approximately 2,000 feet northwest of the intersection of Farm-to-Market Road ("FM") 563 and FM 770, adjacent to a county road and approximately nine miles southeast of Liberty in Liberty County, Texas (the "Facility").
2. Mr. Guzman 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 Mr. Guzman agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Guzman is subject to the Commission's jurisdiction.
4. Mr. Guzman received notice of the violations alleged in Section II ("Allegations") on or about June 11, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Guzman of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Six Thousand Four Hundred Twenty Dollars (\$6,420) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Guzman has paid Five Thousand One Hundred Thirty-Six Dollars (\$5,136) of the administrative penalty and One Thousand Two Hundred Eighty-Four Dollars (\$1,284) is deferred contingent upon Mr. Guzman'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 Mr. Guzman fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Guzman 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 Mr. Guzman 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 Mr. Guzman has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. Guzman is alleged to have:

1. Failed to submit an application to transfer the Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14026001 from the previous owner to the current owner of the Facility, in violation of 30 TEX. ADMIN. CODE § 305.64(b), as documented during an investigation conducted on March 12, 2007.
2. Failed to maintain authorization to discharge wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.65, TPDES Permit No. 14026001, Permit Conditions No. 4.c., and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on March 12, 2007. Specifically, TPDES Permit No. 14026001 expired on February 1, 2007, and the Facility is still operating and discharging wastewater.

III. DENIALS

Mr. Guzman generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Guzman pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Guzman'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: Hector Guzman, Docket No. 2007-1179-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 Mr. Guzman shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. 14026001;
 - b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application, in accordance with 30 TEX. ADMIN. CODE § 305 to:

Water Quality Applications Team, Permits Review Section
Registration, Review and Reporting Division, MC 161
P.O. Box 13087
Austin, Texas 78711-3087
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing;
 - d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a. through 2.c., as described in Ordering Provision No. 2.f. below;
 - e. Within 300 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 2.f.; and
 - f. Written certification of compliance shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and shall 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:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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



For the Executive Director

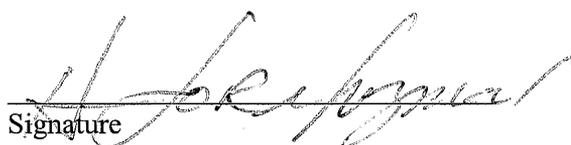
Date 1/29/2008

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

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

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

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



Signature

Date 10/26/07



Name (Printed or typed)
Authorized Representative of
Hector Guzman

Title OWNER

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.

