

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1710-MWD-E **TCEQ ID:** RN102314218 **CASE NO.:** 34816

**RESPONDENT NAME:** Aus-Tex Parts & Services, Ltd.

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <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                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Railyard Plant, located approximately 2.6 miles northwest of the intersection of State Highway 21 and County Road 127, Hays County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Donald Dempsey, Partner, Aus-Tex Parts &amp; Services, Ltd., P. O. Box 17547, Austin, Texas 78760<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
|---|---|---|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> September 7, 2007</p> <p><b>Date of NOE Relating to this Case:</b> September 17, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with its permitted effluent limits for total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014060001 Interim Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014060001 Sludge Provisions].</p> | <p><b>Total Assessed:</b> \$7,000</p> <p><b>Total Deferred:</b> \$1,400<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,600</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) On or about October 5, 2007, installed an automatic switchover for the air blowers;</p> <p>b) On or about October 5, 2007, installed new breakers for the air blowers;</p> <p>c) On or about October 5, 2007, completely drained and repaired the clarifier;</p> <p>d) On or about October 5, 2007, repaired the gears on the sludge and skimmer rake drive;</p> <p>e) On October 5, 2007, repaired the airlift pump on the skimmer; and</p> <p>f) On October 13, 2007, replaced the air connection on the aeration tank.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, submit the annual sludge report for the Facility; and</p> <p>b) Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014060001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public.</p> |

Additional ID No(s): TPDES Permit No. WQ0014060001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

|              |          |             |           |             |         |  |
|--------------|----------|-------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 24-Sep-2007 | Screening | 18-Oct-2007 | EPA Due |  |
|              | PCW      | 23-Oct-2007 |           |             |         |  |

|  |                                |
|--|--------------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                                |
| Respondent                             | Aus-Tex Parts & Services, Ltd. |
| Reg. Ent. Ref. No.                     | RN102314218                    |
| Facility/Site Region                   | 11-Austin                      |
| Major/Minor Source                     | Minor                          |

|                         |                 |                   |                    |          |
|-------------------------|-----------------|-------------------|--------------------|----------|
| <b>CASE INFORMATION</b> |                 |                   |                    |          |
| Enf./Case ID No.        | 34816           | No. of Violations | 2                  |          |
| Docket No.              | 2007-1710-MWD-E | Order Type        | 1660               |          |
| Media Program(s)        | Water Quality   | Enf. Coordinator  | Pamela Campbell    |          |
| 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** 75% Enhancement *Subtotals 2, 3, & 7*

Notes: The Respondent has two NOV's for same or similar violations and has thirteen months of self-reported effluent violations.

**Culpability** No 0% Enhancement *Subtotal 4*

Notes: The Respondent does not meet the culpability criteria.

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

|               |                          |                               |
|---------------|--------------------------|-------------------------------|
|               | Before NOV               | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="checkbox"/> | <input type="checkbox"/>      |
| Ordinary      | <input type="checkbox"/> | <input type="checkbox"/>      |
| N/A           | X                        | (mark with x)                 |

Notes: The Respondent does not meet the good faith criteria.

**Total EB Amounts** \$649 **Approx. Cost of Compliance** \$5,200 **0% Enhancement\*** *Subtotal 6*   
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal*

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0% *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

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:

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 18-Oct-2007      **Docket No.** 2007-1710-MWD-E  
**Respondent** Aus-Tex Parts & Services, Ltd.  
**Case ID No.** 34816  
**Reg. Ent. Reference No.** RN102314218  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Pamela Campbell

**PCW**  
 Policy Revision 2 (September 2002)  
 PCW Revision September 19, 2007

### 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)  | 15                | 75%     |
|                               | 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%      |
| <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)** 75%

>> 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 two NOVs for same or similar violations and has thirteen months of self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 75%

|  |                                   |   |
|--|-----------------------------------|---|
| <b>Screening Date</b> 18-Oct-2007                | <b>Docket No.</b> 2007-1710-MWD-E | <b>PCW</b>                                |
| <b>Respondent</b> Aus-Tex Parts & Services, Ltd. |                                   | <i>Policy Revision 2 (September 2002)</i> |
| <b>Case ID No.</b> 34816                         |                                   | <i>PCW Revision September 19, 2007</i>    |
| <b>Reg. Ent. Reference No.</b> RN102314218       |                                   |   |
| <b>Media [Statute]</b> Water Quality             |                                   |   |
| <b>Enf. Coordinator</b> Pamela Campbell          |                                   |   |

|                              |   |
|------------------------------|---|
| <b>Violation Number</b>      | 1   |
| <b>Rule Cite(s)</b>          | 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0014060001 Interim Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a) |
| <b>Violation Description</b> | Failed to comply with permitted effluent limits as shown in the attached table.   |

**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

|           |                |       |          |                    |       |
|-----------|----------------|-------|----------|--------------------|-------|
| OR        | <b>Harm</b>    |       |          | <b>Percent</b> 10% |       |
|           | <b>Release</b> | Major | Moderate |                    | Minor |
|           | Actual         |       |          |                    | x     |
| Potential |                |       |          |                    |       |

>> Programmatic Matrix

|  |               |       |          |       |                   |
|--|---------------|-------|----------|-------|-------------------|
|  | Falsification | Major | Moderate | Minor | <b>Percent</b> 0% |
|  |               |       |          |       |                   |

**Matrix Notes**  
The amount of pollutants discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.

**Adjustment** \$9,000

\$1,000

Violation Events

Number of Violation Events 3      120 Number of violation days

|                                |              |   |
|--------------------------------|--------------|---|
| <i>mark only one with an x</i> | daily        |   |
|                                | monthly      |   |
|                                | quarterly    | x |
|                                | semiannual   |   |
|                                | annual       |   |
|                                | single event |   |

**Violation Base Penalty** \$3,000

Three quarterly events are recommended.

|  |  |
|--|--|
| <b>Economic Benefit (EB) for this violation</b>                            | <b>Statutory Limit Test</b>                  |
| <b>Estimated EB Amount</b> \$642   | <b>Violation Final Penalty Total</b> \$5,250 |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> \$5,250 |  |

## Economic Benefit Worksheet

**Respondent** Aus-Tex Parts & Services, Ltd.  
**Case ID No.** 34816  
**Reg. Ent. Reference No.** RN102314218  
**Media** Water Quality  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

|                          | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Equipment                | \$5,000   | 1-Aug-2006    | 1-Jun-2008 | 1.8 | \$31           | \$612         | \$642     |
| Buildings                |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |            | 0.0 | \$0            | \$0           | \$0       |
| Land                     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |            | 0.0 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |            | 0.0 | \$0            | n/a           | \$0       |

**Notes for DELAYED costs**

This is the estimated cost to purchase and install an automatic switchover and new breakers for the air blowers; drain and repair the clarifier; repair the gears on the sludge and skimmer rake drive; and repair the airlift pump on the skimmer. The date required is the date that the violations first occurred and the final date is the anticipated date of compliance.

### Avoided Costs

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

|                               | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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

\$642

|                                |  |   |                 |            |
|--------------------------------|--|---|-----------------|------------|
| <b>Screening Date</b>          | 18-Oct-2007  | <b>Docket No.</b>                         | 2007-1710-MWD-E | <b>PCW</b> |
| <b>Respondent</b>              | Aus-Tex Parts & Services, Ltd.   | <i>Policy Revision 2 (September 2002)</i> |                 |            |
| <b>Case ID No.</b>             | 34816  | <i>PCW Revision September 19, 2007</i>    |                 |            |
| <b>Reg. Ent. Reference No.</b> | RN102314218  |   |                 |            |
| <b>Media [Statute]</b>         | Water Quality  |   |                 |            |
| <b>Enf. Coordinator</b>        | Pamela Campbell  |   |                 |            |
| <b>Violation Number</b>        | 2  |   |                 |            |
| <b>Rule Cite(s)</b>            | 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014060001 Sludge Provisions                          |   |                 |            |
| <b>Violation Description</b>   | Failed to submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006. |   |                 |            |

**Base Penalty**

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

|  |                      |   |                      |                      |   |
|--|----------------------|---|----------------------|----------------------|---|
|  | Falsification        | Major                                     | Moderate             | Minor                | <b>Percent</b> <input type="text" value="10%"/> |
|  | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> |   |

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="text"/>                      |
|                                | monthly      | <input type="text"/>                      |
|                                | quarterly    | <input type="text"/>                      |
|                                | semiannual   | <input type="text"/>                      |
|                                | annual       | <input type="text"/>                      |
|                                | single event | <input checked="" type="text" value="x"/> |

**Violation Base Penalty**

One single event is recommended.

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 Aus-Tex Parts & Services, Ltd.  
 Case ID No. 34816  
 Reg. Ent. Reference No. RN102314218  
 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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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    | \$200 | 1-Sep-2007 | 1-May-2008 | 0.7 | \$7 | n/a | \$7 |
| Training/Sampling        |       |            |            | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal     |       |            |            | 0.0 | \$0 | n/a | \$0 |
| Permit Costs             |       |            |            | 0.0 | \$0 | n/a | \$0 |
| Other (as needed)        |       |            |            | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

This is the estimated cost to prepare and submit the sludge report to the TCEQ. The date required is the date that the report was due and the final date is the anticipated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$7

Aus-Tex Parts & Services, Ltd.  
TPDES Permit No. WQ0014060001  
Docket No. 2007-1710-MWD-E

| Date             | Total<br>Suspended<br>Solids<br>Daily Average<br>Concentration<br>15 milligrams<br>per liter |
|------------------|--|
| August<br>2006   | 18   |
| February<br>2007 | 21   |
| April<br>2007    | 31   |
| May 2007         | 30   |



## Compliance History

|   |   |   |                        |
|---|---|---|------------------------|
| Customer/Respondent/Owner-Operator:           | CN601121122 Aus-Tex Parts & Services, Ltd.  | Classification: Average                   | Rating: 1.87           |
| Regulated Entity:                             | RN102314218 RAILYARD PLANT  | Classification: Average                   | Site Rating: 0.74      |
| ID Number(s):                                 | WASTEWATER PERMIT<br>WASTEWATER PERMIT<br>WASTEWATER PERMIT   | WQ0014060001<br>TPDES0117676<br>TX0117676 |                        |
| Location:                                     | APPROXIMATELY 2.6 MILES<br>MILES NW OF THE INTERSECTION<br>OF SH 21 AND CR 127, HAYS COUNTY<br>REGION 11 - AUSTIN | Rating Date: September 01 07              | Repeat Violator:<br>NO |
| TCEQ Region:                                  | October 01, 2007  |   |                        |
| Date Compliance History Prepared:             | Enforcement   |   |                        |
| Agency Decision Requiring Compliance History: | October 01, 2002 to October 01, 2007  |   |                        |
| Compliance Period:                            | TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History                         |   |                        |
| Name: Pamela Campbell                         | Phone: 512 239-4493   |   |                        |

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
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 10/30/2002 (231681)
  - 2 10/30/2002 (231682)
  - 3 11/07/2002 (15361)
  - 4 12/17/2002 (326315)
  - 5 01/22/2003 (231683)
  - 6 01/22/2003 (231684)
  - 7 04/02/2003 (326305)
  - 8 04/02/2003 (326307)
  - 9 06/03/2003 (61696)
  - 10 07/09/2003 (326308)
  - 11 07/09/2003 (326309)
  - 12 07/09/2003 (326310)
  - 13 10/27/2003 (326311)
  - 14 10/27/2003 (326312)
  - 15 10/27/2003 (326313)
  - 16 10/27/2003 (326314)
  - 17 02/12/2004 (326306)
  - 18 02/12/2004 (326316)
  - 19 02/12/2004 (326318)
  - 20 02/22/2004 (326317)
  - 21 06/01/2004 (366417)
  - 22 06/01/2004 (366418)
  - 23 06/01/2004 (366419)
  - 24 08/19/2004 (366420)
  - 25 08/19/2004 (366421)
  - 26 08/19/2004 (366422)
  - 27 10/18/2004 (366423)
  - 28 10/18/2004 (366424)
  - 29 01/03/2005 (389740)
  - 30 01/03/2005 (389741)
  - 31 03/14/2005 (389742)
  - 32 03/14/2005 (389737)
  - 33 04/22/2005 (389738)
  - 34 04/22/2005 (389739)
  - 35 05/24/2005 (427259)
  - 36 07/18/2005 (447330)
  - 37 07/20/2005 (447331)
  - 38 09/26/2005 (447332)
  - 39 09/26/2005 (447333)
  - 40 11/23/2005 (491970)
  - 41 11/28/2005 (491971)
  - 42 12/21/2005 (491972)
  - 43 03/14/2006 (491968)
  - 44 03/14/2006 (491969)
  - 45 03/14/2006 (491973)
  - 46 07/11/2006 (506029)
  - 47 07/11/2006 (528261)
  - 48 07/11/2006 (528262)

49 09/01/2006 (528263)  
50 01/12/2007 (535877)  
51 09/17/2007 (593803)

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

Date: 10/29/2002 (15361)  
Self Report? NO Classification: Moderate  
Citation: TWC Chapter 26 26.121(a)(1)  
Description: Failure to maintain the sewage collection system in order to prevent unauthorized discharges.

Date: 01/31/2003 (326305)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2004 (389740)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (389741)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (447332)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2005 (447333)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (491970)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (491972)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (528261)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (528262)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/15/2007 (535877)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)(1)  
TWC Chapter 26 26.121(a)(2)  
TWC Chapter 26 26.121(a)(3)  
TWC Chapter 26 26.121(a)[G]

Rqmt Prov: TWC Chapter 26 26.121(b)  
Description: TWC Chapter 26 26.121(c)  
TWC Chapter 26 26.121(d)  
TWC Chapter 26 26.121(e)  
TWC Chapter 26 26.121[G]  
PERMIT PERMIT CONDITINS (2) Compliance (g)  
The facility experienced an unauthorized discharge of wastewater from the collection system due to a lift station failure.

Date: 02/28/2007  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AUS-TEX PARTS & SERVICES, LTD.  
RN102314218

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-1710-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 Aus-Tex Parts & Services, Ltd. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 2.6 miles northwest of the intersection of State Highway 21 and County Road 127 in Hays County, Texas (the "Facility").
2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 22, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Dollars (\$7,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent



has paid Five Thousand Six Hundred Dollars (\$5,600) of the administrative penalty and One Thousand Four Hundred Dollars (\$1,400) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. On or about October 5, 2007, installed an automatic switchover for the air blowers;
  - b. On or about October 5, 2007, installed new breakers for the air blowers;
  - c. On or about October 5, 2007, completely drained and repaired the clarifier;
  - d. On or about October 5, 2007, repaired the gears on the sludge and skimmer rake drive;
  - e. On October 5, 2007, repaired the airlift pump on the skimmer; and
  - f. On October 13, 2007, replaced the air connection on the aeration tank.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to comply with its permitted effluent limits as shown in the table below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014060001 Interim Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on September 7, 2007.



| Date          | Total Suspended Solids Daily Average Concentration 15 milligrams per liter |
|---------------|--|
| August 2006   | 18   |
| February 2007 | 21   |
| April 2007    | 31   |
| May 2007      | 30   |

2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2006 by September 1, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014060001 Sludge Provisions, as documented during a record review conducted on September 7, 2007.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aus-Tex Parts & Services, Ltd., Docket No. 2007-1710-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 the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit the annual sludge report for the Facility. This report shall be submitted to:



Compliance Monitoring Team (MC 224)  
Enforcement Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014060001. The certification shall include detailed supporting documentation including receipts, and /or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.



5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Szolau  
\_\_\_\_\_  
For the Executive Director

3/5/2008  
\_\_\_\_\_  
Date

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

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

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

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

[Signature]  
\_\_\_\_\_  
Signature

12/29/04  
\_\_\_\_\_  
Date

Donald Dempsey  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Aus-Tex Parts & Services, Ltd.

Partner  
\_\_\_\_\_  
Title

**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.

