

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0267-MWD-E **TCEQ ID:** RN101527513 **CASE NO.:** 35422
RESPONDENT NAME: BCWK, LP

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: Bender Creek Plant, 14400 Highway 59 North, north of the Old Humble Road, approximately 500 feet east of United States Highway 59, Humble, Harris County</p> <p>TYPE OF OPERATION: Domestic 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 June 16, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Steven Z. Weinreb, Partner/Registered Agent, BCWK, LP, 103 Parkville Avenue, Brooklyn, New York 11230-1111 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 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 of Investigation Relating to this Case: December 14, 2007</p> <p>Date of NOV/NOE Relating to this Case: February 4, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011145001, and is continuing to discharge wastewater from the Facility without authorization [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2)].</p>	<p>Total Assessed: \$3,240</p> <p>Total Deferred: \$648 <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: \$2,592</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 1, 2008, the Respondent submitted an application for authorization to discharge wastewater under a TPDES permit.</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 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0011145001;</p> <p>b. 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 requests or by any other deadline specified in writing; and</p> <p>c. Within 180 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. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0011145001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

DATES	Assigned	11-Feb-2008		
	PCW	20-Feb-2008	Screening	20-Feb-2008
		EPA Due		

RESPONDENT/FACILITY INFORMATION			
Respondent	BCWK, LP		
Reg. Ent. Ref. No.	RN101527513		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35422	No. of Violations	1
Docket No.	2008-0267-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lauren Smitherman
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)	<i>Subtotal 1</i>	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	8% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$240
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Notes: The penalty is enhanced due to four NOVs with unrelated violations.

Culpability	No	0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5</i>	\$0
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Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

	0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts: \$616
 Approx. Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$3,240
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$3,240
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$3,240
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DEFERRAL	20% Reduction	<i>Adjustment</i>	-\$648
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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	\$2,592
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Screening Date	20-Feb-2008	Docket No.	2008-0267-MWD-E	PCW
Respondent	BCWK, LP			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35422			<i>PCW Revision January 29, 2008</i>
Reg. Ent. Reference No.	RN101527513			
Media [Statute]	Water Quality			
Enf. Coordinator	Lauren Smitherman			

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>)	0	0%
	Other written NOVs	4	8%
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	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) 8%

>> 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 penalty is enhanced due to four NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 8%

Screening Date 20-Feb-2008	Docket No. 2008-0267-MWD-E	PCW
Respondent BCWK, LP	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35422	<small>PCW Revision January 29, 2008</small>	
Reg. Ent. Reference No. RN101527513		
Media [Statute] Water Quality		
Enf. Coordinator Lauren Smitherman		
Violation Number	1	
Rule Cite(s)	Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code §§ 305.65 and 305.125(2)	
Violation Description	Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011145001, and is continuing to discharge wastewater from the Facility without authorization.	
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 style="width:50px;" type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	x	<input type="checkbox"/>	<input type="checkbox"/>	
					Percent <input style="width:50px;" 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

mark only one with an x

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

Violation Base Penalty

Three monthly events are recommended from the date the TPDES permit expired (December 1, 2007) to the screening date (February 20, 2008).

Economic Benefit (EB) for this violation	Statutory Limit Test
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Estimated EB Amount <input style="width: 150px;" type="text" value="\$616"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$3,240"/>
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This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent BCWK, LP
 Case ID No. 35422
 Reg. Ent. Reference No. RN101527513
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime 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	\$10,000	1-Dec-2007	23-Feb-2009	1.2	\$616	n/a	\$616
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a new permit application to obtain authorization to discharge wastewater. Date required is the date the previous permit expired. Final date is the expected 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	\$10,000	TOTAL	\$616
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Compliance History

Customer/Respondent/Owner-Operator:	CN603110768	BCWK, LP	Classification: AVERAGE	Rating: 1.07
Regulated Entity:	RN101527513	BENDER CREEK PLANT	Classification: AVERAGE	Site Rating: 1.07
ID Number(s):	WASTEWATER	PERMIT		WQ0011145001
	WASTEWATER	PERMIT		TX0067539000
	WASTEWATER	PERMIT		TX0067539
	WASTEWATER LICENSING	LICENSE		WQ0011145001
Location:	14400 HWY 59 N, N OF THE OLD HUMBLE RD, APPROX 500 FT E OF US HWY 59 IN HUMBLE, HARRIS CO, TX			Rating Date: September 01 07
TCEQ Region:	REGION 12 - HOUSTON			Repeat Violator: NO
Date Compliance History Prepared:	February 12, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 12, 2003 to February 12, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Lauren Smitherman	Phone:	512-239-5223	

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? | BCWK, LP |
| 4. If Yes, who was/were the prior owner(s)? | BC Utilities, Inc. |
| 5. When did the change(s) in ownership occur? | 10/26/2006 |

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 | 05/30/2003 | (55591) |
| 2 | 07/28/2003 | (145513) |
| 3 | 12/17/2003 | (254615) |
| 4 | 01/16/2004 | (260281) |
| 5 | 09/22/2004 | (358320) |
| 6 | 09/22/2004 | (358321) |
| 7 | 01/20/2005 | (423329) |
| 8 | 05/06/2005 | (423323) |
| 9 | 05/06/2005 | (423324) |
| 10 | 05/06/2005 | (423325) |
| 11 | 05/06/2005 | (423326) |
| 12 | 05/06/2005 | (423327) |
| 13 | 05/06/2005 | (423328) |
| 14 | 05/06/2005 | (423330) |
| 15 | 10/18/2005 | (531028) |
| 16 | 12/09/2005 | (474526) |
| 17 | 12/16/2005 | (439374) |

18 04/12/2006 (502325)
 19 04/12/2006 (502326)
 20 04/12/2006 (502327)
 21 01/22/2007 (583507)
 22 01/22/2007 (583508)
 23 01/22/2007 (583509)
 24 01/22/2007 (583510)
 25 01/22/2007 (583511)
 26 01/22/2007 (583512)
 27 03/22/2007 (583513)
 28 03/22/2007 (583514)
 29 03/22/2007 (583515)
 30 02/04/2008 (615864)
 31 02/04/2008 (614093)

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

Date	05/28/2003	(55591)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 317 317.3(b)(1)			
Description:	Failure to maintain lift pumps in the lift station.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 317 317.4(g)(4)(B)(iii)			
Description:	Failure to maintain a backup blower.			
Date	12/15/2003	(254615)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)(1)			
Rqmt Prov:	PERMIT Operations and Maintenance, No. 1			
Description:	Failure to operate and maintain the wastewater treatment plant to prevent the discharge and accumulation of sludge to the receiving stream.			
Date	10/18/2005	(531028)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date	12/14/2005	(439374)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to provide documentation for sludge analyses. Toxicity characteristic leaching procedure, metals and polychlorinated biphenyl analysis results were not available at the time of the inspection.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(g)(4)(B)			
Description:	Failure to maintain the blower.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317 317.6(b)(1)(A)			
Description:	Failure to maintain the chlorinator. The chlorinator was not operable at the time of the inspection.			

Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.5(b)		
Description:	Failure to collect samples at the frequency required by the permit. Samples were not collected for the required parameters during the second week of July 2005.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to provide the chain of custody forms for samples collected by the operator and the Signatory Authority form for the Discharge Monitoring Reports.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to submit Discharge Monitoring Reports (DMR) by the 20th day of the following month.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to operate and maintain the wastewater treatment plant to prevent the discharge of sewage debris to the receiving stream. The receiving stream contained a small amount of sludge, grease, and sewage debris at the time of the inspection.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain the gate to prevent access to the wastewater treatment plant. The gate is bent allowing access to the plant.		

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
BCWK, LP
RN101527513**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0267-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 BCWK, LP ("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 domestic wastewater treatment facility located at 14400 Highway 59 North, north of the old Humble Road, approximately 500 feet east of United States Highway 59 in Humble, Harris County, Texas (the "Facility").
2. The Respondent 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 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 February 9, 2008.
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 Three Thousand Two Hundred Forty Dollars (\$3,240) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Two Thousand Five Hundred Ninety-Two Dollars (\$2,592) of the administrative penalty and Six Hundred Forty-Eight Dollars (\$648) 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 on February 1, 2008, the Respondent submitted an application for authorization to discharge wastewater under a Texas Pollutant Discharge Elimination System ("TPDES") permit.
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 failed to maintain authorization for the discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), as documented during an investigation conducted on December 14, 2007. Specifically, the Respondent did not renew TPDES Permit No. WQ0011145001, and is continuing to discharge wastewater from the Facility without authorization.

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: BCWK, LP, Docket No. 2008-0267-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. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0011145001;
 - b. 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 requests or by any other deadline specified in writing; and
 - c. Within 180 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. The certification shall include detailed supporting documentation including photographs, 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
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 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



For the Executive Director

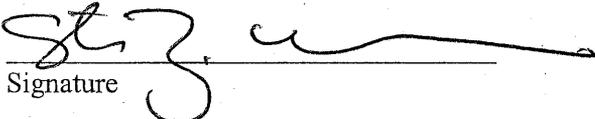
6/2/2008
Date

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

4/1/08
Date

~~PARTNER~~ STEVE Z. WEINDOB

Name (Printed or typed)
Authorized Representative of
BCWK, LP

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.

