

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2005-1335-MWD-E TCEQ ID: RN102096526 CASE NO.: 26305
RESPONDENT NAME: WESTERN TRAILS WATER SUPPLY CORPORATION**

| | | |
|---|--|--|
| 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 |

SITE WHERE VIOLATION(S) OCCURRED: Approximately 0.5 miles north of U.S. Highway 181 and approximately 3.5 miles northwest of the intersection of U.S. Highway 181 and Farm-to-Market Road 1518, Bexar County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 28, 2008. No comments were received.

CONTACTS AND MAILING LIST:

- TCEQ Attorney:** Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
- TCEQ Enforcement Coordinator:** Ms. Merrilee Gerberding Hupp, Waste Enforcement Section, MC 169; (512) 239-4490
- TCEQ Regional Contact:** Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050
- Respondent:** Mr. Larry V. Ricketts, Member, Western Trails Water Supply Corporation, 12290 Highway 181, Suite 62, San Antonio, Texas 78223
- Respondent's Attorney:** Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|---|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: April 11-13, 2005</p> <p>Date of NOE Relating to this Case: July 6, 2005</p> <p>Background Facts:</p> <p>The case was referred to the Litigation Division on October 31, 2005. The EDPRP was filed December 19, 2005. The Respondent filed an Answer on May 1, 2006. A preliminary hearing was held on March 15, 2007. The evidentiary hearing was scheduled for June 26, 2007. The Respondent filed a Motion for Continuance on June 19, 2007, requesting a financial inability to pay analysis. The financial analysis was completed on January 22, 2008, and an Agreed Order was signed February 28, 2008.</p> <p>MWD:</p> <ol style="list-style-type: none"> Failed to submit a permit application for the continued operation of the wastewater treatment facility after the permit had expired [30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.12(a)]. Failed to employ a wastewater treatment plant operator holding a Class D license or higher [30 TEX. ADMIN. CODE § 30.350(j)]. | <p>Total Assessed: \$25,500</p> <p>*Total Deferred: \$21,900</p> <p><input type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid to General Revenue: \$3,600</p> <p>The Respondent has paid \$3,600 of the undeferred administrative penalty. The deferred amount will be waived upon compliance with this Agreed Order.</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>*Explanation: The TCEQ Financial Division conducted an inability to pay analysis and determined that \$3,600 was the amount which the Respondent could afford to pay.</p> | <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Commence operating the Facility under the direct supervision of a properly certified operator; and Comply with the permit limits in expired Permit No. 10313002 until such time that authorization to operate is obtained, or until 180 days after the effective date of the Order, whichever is earlier. Within 15 days, submit written certification of compliance. Within 30 days: <ol style="list-style-type: none"> Submit an administratively complete permit application; and Respond completely and adequately to all requests for information concerning the permit application. Within 180 days, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. |

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1956-MWD-E TCEQ ID: RN103764213 CASE NO.: 27387
RESPONDENT NAME: THE MEADOWS AT QUAIL RUN GP, LLC

| | | |
|---|---|--|
| 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: 120 Las Palomas Drive, La Vernia, Wilson County</p> <p>TYPE OF OPERATION: Wastewater collection system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: 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 May 26, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Water Enforcement Division, MC R-13, (210) 403-4012 TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050 Respondent: Mr. Hank Harenberg, Member/Partner, 120 Las Palomas Drive, Wilson County, San Antonio, Texas 78121 Respondent's Attorney: Mr. Mark H. Zeppa, Attorney, Law Offices of Mark H. Zeppa, PC, Independent Water & Sewer Companies of Texas (IWSCOT), 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436</p> | | |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 05-Jul-2005 | Screening | 02-Aug-2005 | EPA Due | |
| | PCW | 26-Oct-2005 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Western Trails Water Supply Corporation |
| Reg. Ent. Ref. No. | RN102096526 |
| Facility/Site Region | 13-San Antonio |
| Major/Minor Source | Minor Source |

| | | | |
|---------------------------------|-----------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 26305 | No. of Violations | 2 |
| Docket No. | 2005-1335-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Merrilee Hupp |
| 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 **\$25,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7 **\$0**

Notes: No change due to Average Performer classification.

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

Notes: The respondent does not meet the culpability criteria.

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

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

Notes: The respondent has not yet achieved compliance.

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

| | | |
|----------------------------|----------|-----------------------------------|
| Total EB Amounts | \$953 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$22,000 | |

SUM OF SUBTOTALS 1-7 Final Subtotal **\$25,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **\$0**

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

Notes:

Final Penalty Amount **\$25,500**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$25,500**

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

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

Notes: This is a non-expedited case, so no deferral is offered.

PAYABLE PENALTY **\$25,500**

Screening Date 02-Aug-2005

Docket No. 2005-1335-MWD-E

PCW

Respondent Western Trails Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 26305

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102096526

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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 | 0 | 0% |
| 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 (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 (<i>number of audits for which notices were</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) 0%

>> **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

No change due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 02-Aug-2005

Docket No. 2005-1335-MWD-E

PCW

Respondent Western Trails Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 26305

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102096526

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 305.42(a) and Tex. Water Code § 26.121(a)

Secondary Rule Cite(s)

Violation Description

Failed to submit a permit application for the continued operation of the wastewater treatment facility after the permit had expired on March 1, 2005, as documented by an investigation conducted on April 11, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | X | | | 10% |

Matrix Notes: 100 percent of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 8

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

Violation Base Penalty \$8,000

Eight monthly events are recommended from the first day of noncompliance (March 2, 2005) to the 60-day settlement deadline (October 29, 2005).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$142

Violation Final Penalty Total \$8,000

This violation Final Assessed Penalty (adjusted for limits) \$8,000

Economic Benefit Worksheet

Respondent Western Trails Water Supply Corporation
 Case ID No. 26305
 Reg. Ent. Reference No. RN102096526
 Media [Statute] Water Quality
 Violation No. 1

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

| Item | Item Cost | 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 | \$2,000 | 01-Mar-2005 | 01-Aug-2006 | 1.4 | \$142 | n/a | \$142 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Cost is estimated based on administrative costs and labor associated with a permit application. Date required is the expiration date of the permit and final date is the date compliance is expected to be achieved.

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 \$2,000

TOTAL \$142

Screening Date 02-Aug-2005 **Docket No.** 2005-1335-MWD-E **PCW**
Respondent Western Trails Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 26305 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102096526
Media [Statute] Water Quality
Enf. Coordinator Merrilee Hupp
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description Failed to employ a wastewater treatment plant operator holding a Class D license or higher, as documented during the inspection conducted on April 11, 2005.
Base Penalty

>> **Environmental, Property and Human Health Matrix**

| Release | Harm | | | Percent |
|-----------|-------------------------------------|--------------------------|--------------------------|----------------------------------|
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="25%"/> |
| Potential | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|------------------------------------|--------------|-------------------------------------|
| <i>mark only one use a small x</i> | 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

| Economic Benefit (EB) for this violation | Statutory Limit Test |
|--|--|
| Estimated EB Amount <input type="text" value="\$811"/> | Violation Final Penalty Total <input type="text" value="\$17,500"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$17,500"/> | |

Economic Benefit Worksheet

Respondent: Western Trails Water Supply Corporation
 Case ID No. 26305
 Reg. Ent. Reference No. RN102096526
 Media [Statute] 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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

| 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) | \$20,000 | 11-Apr-2005 | 01-Feb-2006 | 0.8 | \$811 | n/a | \$811 |

Notes for DELAYED costs: Cost is estimated salary for a licensed wastewater treatment operator. Date required is the inspection date and final date is when compliance is expected to be achieved.

| 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 \$20,000 TOTAL \$811

Compliance History

Customer/Respondent/Owner-Operator: CN600675680 Western Trails Water Supply Corporation Classification: AVERAGE Rating: 3.010
MHP PLANT 2 WESTERN TRAILS WSC Classification: AVERAGE BY DEFAULT Site Rating: 3.01
Regulated Entity: RN102096526
ID Number(s):
Location: Approximately 0.5 mile N. of US Highway 181 Rating Date: 9/1/04 Repeat Violator: NO
and approx. 3.5 miles NW of the intersec. of
US Highway 181 and Farm to Market Rd 1518

TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: August 10, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 08, 2000 to August 08, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee Hupp Phone: 512-239-4490

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
6. Comments:

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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
- Description:
- 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 WESTERN
TRAILS WATER SUPPLY
CORPORATION; RN102096526

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1335-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Western Trails Water Supply Corporation ("Western Trails") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Western Trails, appear before the Commission and together stipulate that:

1. Western Trails owns a wastewater treatment facility approximately 0.5 miles north of U.S. Highway 181 and approximately 3.5 miles northwest of the intersection of U.S. Highway 181 and Farm-to-Market Road 1518 in Bexar County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Western Trails agree that the Commission has jurisdiction to enter this Agreed Order, and that Western Trails is subject to the Commission's jurisdiction.
4. Western Trails received notice of the violations alleged in Section II ("Allegations") on or about July 6, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Western Trails of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of twenty-five thousand five hundred dollars (\$25,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial

Administration Division reviewed the financial documentation submitted by Western Trails and determined that Western Trails is unable to pay part of the administrative penalty. Therefore, twenty-one thousand nine hundred dollars (\$21,900.00) of the penalty is deferred contingent upon Western Trail'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 Western Trails fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Western Trails to pay all or part of the deferred penalty.

Western Trails has paid three thousand six hundred dollars (\$3,600.00) of the undeferred administrative penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Western Trails 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 Western Trails 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

Western Trails is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121(a) by failing to submit a permit application for the continued operation of the wastewater treatment facility after the permit had expired on March 1, 2005, as documented during an inspection conducted by a San Antonio Regional Office investigator on April 11, 2005.

2. 30 TEX. ADMIN. CODE § 30.350(j) by failing to employ a wastewater treatment plant operator holding a Class D license or higher, as documented during an inspection conducted by a San Antonio Regional Office investigator on April 11, 2005.

III. DENIALS

Western Trails generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Western Trails pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Western Trails' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Western Trails Water Supply Corporation, Docket No. 2005-1335-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. Western Trails shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Western Trails shall commence operating the Facility under the direct supervision of a properly certified operator.
 - b. Within 15 days after the effective date of this Agreed Order, Western Trails shall submit written certification of compliance with Ordering Provision 2.a to the address in Ordering Provision 2.f. below;
 - c. Within 30 days after the effective date of this Agreed Order, Western Trails shall submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305 to:

Water Quality Applications Team, Permits Administrative Review Section
Registration, Review and Reporting Division, MC 161
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Western Trails shall 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.
- e. 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 in expired Permit No. 10313002; and
- f. Within 180 days after the effective date of this Agreed Order, submit written certification 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 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.”

Western Trails shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

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

Mr. Tom Haberle, Water Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Road
San Antonio, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon Western Trails. Western Trails 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 Western Trails 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, Western Trails' failure to comply is not a violation of this Agreed Order. Western Trails shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Western Trails shall notify the Executive Director within seven days after Western Trails 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 Western Trails shall be made in writing to the Executive Director. Extensions are not effective until Western Trails 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 Western Trails in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order Western Trails, or three days after the date on which the Commission mails notice of the Order to Western Trails, 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

B. Bergeron Penick
For the Executive Director

4/29/2008
Date

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

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

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

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

Larry V. Ricketts
Signature

27 FEB 2008
Date

Mr. Larry V. Ricketts
Name (Printed or typed)
Authorized representative of
Western Trails Water Supply Corporation

Member
Title