

~~EXECUTIVE SUMMARY - ENFORCEMENT MATTER~~

DOCKET NO.: 2009-0878-MWD-E TCEQ ID: RN102077393 CASE NO.: 37770

RESPONDENT NAME: Trinity Bay Conservation District

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: Winnie-Stowell WWTP, located approximately 1.2 miles southeast of the intersection of State Highway 124 and Farm-to-Market Road 1406, approximately 0.7 mile east of State Highway 124 on Buccaneer Drive, Winnie, Chambers County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 November 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. John C. Finn, Utilities Superintendent, Trinity Bay Conservation District, Post Office Box 580, Anahuac, Texas 77514 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 16, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 22, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations. Specifically, the ammonia nitrogen daily average concentration for the monitoring period ending August 31, 2008 was 4.4 milligrams per liter ("mg/L") and the ammonia nitrogen daily average concentration for the monitoring period ending December 31, 2008 was 7.14 mg/L, which exceeded the 3 mg/L permitted limit for the months of April through September and the 5 mg/L permitted limit for the months of October through March [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010851001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$11,750</p> <p>Total Deferred: \$2,350 <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: \$9,400</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010851001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0010851001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	26-May-2009	Screening	10-Jun-2009	EPA Due	5-Jun-2009
	PCW	24-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Trinity Bay Conservation District
Reg. Ent. Ref. No.	RN102077393
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37770	No. of Violations	1
Docket No.	2009-0878-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7** \$6,750

Notes: Enhancement recommended for having 17 NOVs for self-reported effluent violations, five NOVs for non-similar violations, and two Agreed Orders with denial within the last five years.

Culpability **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **Subtotal 6** \$0

Total EB Amounts \$78
 Approx. Cost of Compliance \$1,000
 0.0% Enhancement
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$11,750

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$11,750

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$11,750

DEFERRAL **Adjustment** -\$2,350

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 **\$9,400**

Screening Date 10-Jun-2009

Docket No. 2009-0878-MWD-E

PCW

Respondent Trinity Bay Conservation District

Policy Revision 2 (September 2002)

Case ID No. 37770

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102077393

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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)	17	85%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	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) 135%

>> 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

Enhancement recommended for having 17 NOVs for self-reported effluent violations, five NOVs for non-similar violations, and two Agreed Orders with denial within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 135%

Screening Date	10-Jun-2009	Docket No.	2009-0878-MWD-E	PCW	
Respondent	Trinity Bay Conservation District		<small>Policy Revision 2 (September 2002)</small>		
Case ID No.	37770		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No.	RN102077393				
Media [Statute]	Water Quality				
Enf. Coordinator	Samuel Short				
Violation Number	1				
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010861001, Effluent Limitations and Monitoring Requirements No. 1				
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review conducted on April 16, 2009. Specifically, the ammonia nitrogen daily average concentration for the monitoring period ending August 31, 2008 was 4.4 milligrams per liter ("mg/L") and the ammonia nitrogen daily average concentration for the monitoring period ending December 31, 2008 was 7.14 mg/L, which exceeded the 3 mg/L permitted limit for the months of April through September and the 5 mg/L permitted limit for the months of October through March.				
Base Penalty			\$10,000		
>> Environmental, Property and Human Health Matrix					
OR	Release	Major	Moderate	Minor	
	Actual			X	
	Potential				Percent <input type="text" value="25%"/>
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.				
Adjustment			\$7,500		
			\$2,500		
Violation Events					
Number of Violation Events		<input type="text" value="2"/>	Number of violation days		
		<input type="text" value="62"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	X			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
Violation Base Penalty			\$5,000		
Two quarterly events are recommended.					
Good Faith Efforts to Comply		0.0%	Reduction		
			\$0		
	Extraordinary	<input type="text"/>	Before NOV	<input type="text"/>	
	Ordinary	<input type="text"/>	NOV to EDRP/Settlement	<input type="text"/>	
	N/A	X	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal			\$5,000		
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$78"/>	Violation Final Penalty Total		
			<input type="text" value="\$11,750"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$11,750"/>		

Economic Benefit Worksheet

Respondent Trinity Bay Conservation District
Case ID No. 37770
Reg. Ent. Reference No. RN102077393
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	31-Aug-2008	24-Mar-2010	1.56	\$78	n/a	\$78

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$78

Compliance History Report

Customer/Respondent/Owner-Operator: CN600675417 Trinity Bay Conservation District Classification: AVERAGE Rating: 1.64
Regulated Entity: RN102077393 WINNIE-STOWELL WWTP Classification: AVERAGE Site Rating: 2.96
ID Number(s): WASTEWATER PERMIT WQ0010851001
WASTEWATER PERMIT TPDES0020460
WASTEWATER PERMIT TX0020460
WASTEWATER LICENSING LICENSE WQ0010851001
Location: LOCATED APPROXIMATELY 1.2 MILES SOUTHEAST OF THE INTERSECTION OF STATE HIGHWAY 124 AND FARM-TO-MARKET ROAD 1406, APPROXIMATELY 0.7 MILE EAST OF STATE HIGHWAY 124 ON BUCCANEER DRIVE IN WINNIE, CHAMBERS COUNTY, TEXAS
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: June 09, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 09, 2004 to June 09, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Samuel Short Phone: (512) 239-5363

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 12/15/2005 ADMINORDER 2005-0944-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 01/12/2008 ADMINORDER 2007-0822-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

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

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- 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	06/21/2004	(297256)
2	06/30/2004	(297258)
3	06/30/2004	(297268)
4	08/16/2004	(352919)
5	09/20/2004	(352920)
6	10/14/2004	(352921)
7	11/09/2004	(352922)
8	12/20/2004	(382242)
9	02/16/2005	(382240)
10	03/14/2005	(382241)
11	04/01/2005	(430117)
12	04/18/2005	(430113)
13	05/10/2005	(379138)
14	05/16/2005	(377270)
15	05/16/2005	(430114)
16	06/20/2005	(430115)
17	07/20/2005	(430116)
18	07/20/2005	(430118)
19	09/15/2005	(441208)
20	10/27/2005	(441209)
21	10/31/2005	(435943)
22	11/21/2005	(469082)
23	12/12/2005	(469083)
24	02/27/2006	(469081)
25	03/27/2006	(498633)
26	04/26/2006	(498634)
27	05/11/2006	(498637)
28	05/17/2006	(498635)
29	06/30/2006	(498636)
30	07/11/2006	(484481)
31	08/29/2006	(620628)
32	09/25/2006	(645013)
33	10/25/2006	(645014)
34	11/27/2006	(645015)
35	12/29/2006	(645016)
36	01/19/2007	(553672)
37	02/12/2007	(534938)
38	02/27/2007	(645017)
39	02/28/2007	(576219)
40	03/22/2007	(576220)
41	04/11/2007	(576224)
42	04/12/2007	(576225)
43	04/16/2007	(576221)
44	05/14/2007	(576222)
45	05/17/2007	(558394)
46	06/15/2007	(576223)
47	08/29/2007	(607732)
48	08/29/2007	(607733)
49	10/08/2007	(619849)
50	12/03/2007	(619850)
51	12/28/2007	(619851)
52	02/25/2008	(672329)
53	03/26/2008	(672330)
54	04/17/2008	(690245)
55	05/27/2008	(690246)
56	06/02/2008	(690249)
57	06/09/2008	(690248)
58	06/16/2008	(690247)
59	07/23/2008	(646311)
60	10/02/2008	(727722)

61 10/03/2008 (711070)
 62 11/20/2008 (727723)
 63 12/08/2008 (727725)
 64 12/19/2008 (721166)
 65 12/19/2008 (727724)
 66 05/22/2009 (742768)

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

Date: 09/30/2004 (335643) CN600675417
 Self Report? NO Classification: Moderate
 Citation: 10851-001 PERMIT
 30 TAC Chapter 101, SubChapter A 101.4
 Description: Failure to prevent the discharge of nuisance odors from the wastewater treatment plant.

Date: 11/30/2004 (382242) CN600675417
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (397939) CN600675417
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (297288) CN600675417
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (382240) CN600675417
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (382241) CN600675417
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (430113) CN600675417
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/16/2005 (377270) CN600675417
 Self Report? NO Classification: Moderate
 Citation: 10851-001 PERMIT
 30 TAC Chapter 101, SubChapter A 101.4
 Description: Failure to prevent the discharge of nuisance odors from the wastewater treatment plant.

Self Report? NO Classification: Moderate
 Citation: 10851-001 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to ensure the flow meter was accurately measuring the flow rate.

Self Report? NO Classification: Moderate
 Citation: 10851-001 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to submit noncompliance notification for effluent violations which deviate more than 40% from the permitted effluent limits.

Date: 06/30/2005 (430116) CN600675417
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/26/2005 (434806) CN600675417

Self Report?	NO	Classification:	Moderate
Citation:	10851-001 PERMIT 30 TAC Chapter 101, SubChapter A 101.4		
Description:	Failure to prevent the discharge of nuisance odors from the wastewater treatment plant (WWTP).		
Date:	10/31/2005	(469082)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2006	(469081)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2006	(498633)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006	(545013)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2006	(545016)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2006	(545017)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/19/2007	(553672)	
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:	01/31/2007	(576219)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/12/2007	(534938)	CN600675417
Self Report?	NO	Classification:	Moderate
Citation:	10851-001 PERMIT 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to properly operate and maintain the flow meter so that it accurately measures the effluent flow.		
Date:	12/31/2007	(607733)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2008	(711070)	CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2008		CN600675417
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
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
TRINITY BAY CONSERVATION
DISTRICT
RN102077393**

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

**AGREED ORDER
DOCKET NO. 2009-0878-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 Trinity Bay Conservation District ("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 1.2 miles southeast of the intersection of State Highway 124 and Farm-to-Market Road 1406, approximately 0.7 mile east of State Highway 124 on Buccaneer Drive in Winnie, Chambers County, Texas (the "Facility").
2. The Respondent has discharged municipal waste 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 May 27, 2009.
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 Eleven Thousand Seven Hundred Fifty Dollars (\$11,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Four Hundred Dollars (\$9,400) of the administrative penalty and Two Thousand Three Hundred Fifty Dollars (\$2,350) 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 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.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010851001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on April 16, 2009. Specifically, the ammonia nitrogen daily average concentration for the monitoring period ending August 31, 2008 was 4.4 milligrams per liter ("mg/L") and the ammonia nitrogen daily average concentration for the monitoring period ending December 31, 2008 was 7.14 mg/L, which exceeded the 3 mg/L permitted limit for the months of April through September and the 5 mg/L permitted limit for the months of October through March.

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: Trinity Bay Conservation District, Docket No. 2009-0878-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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010851001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents; and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

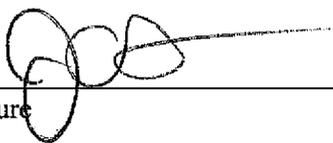
10/20/2009
Date

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

8-31-09
Date

JOHN C. FINN

Name (Printed or typed)
Authorized Representative of
Trinity Bay Conservation District

UTILITY SUPT.

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.

