

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-1041-MWD-E TCEQ ID: RN103014445 CASE NO.: 37892**

**RESPONDENT NAME: Texas Airstream Harbor, Inc.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Texas Airstream Harbor, approximately 0.5 mile northwest of State Highway 147 at a point approximately 300 feet southerly from the shoreline of Sam Rayburn Reservoir and approximately 5 miles northeast of Zavalla, Angelina County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 30, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Jim Lovelady, President, Texas Airstream Harbor, Inc., 208 Winged Foot Drive, Lufkin, Texas 75901                  Mr. Fred Richardson, Board Member, Texas Airstream Harbor, Inc., 208 Winged Foot Drive, Lufkin, Texas 75901  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 26, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 26, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permitted effluent limits for biochemical oxygen demand and total suspended solids ("TSS") [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011895001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to submit the discharge monitoring report ("DMR") data for TSS for the monitoring period ending August 31, 2008, by the 20th day of the following month [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$1,125</p> <p><b>Total Deferred:</b> \$225  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$900</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that during May 2009, the Respondent purchased a generator to prevent effluent violations due to power failures and achieved compliance with all permitted effluent limitations.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the DMR data for total suspended solids for the monitoring period ending August 31, 2008; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): WQ0011895001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	29-Jun-2009	Screening	3-Jul-2009	EPA Due	
	PCW	6-Jul-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Texas Airstream Harbor, Inc.		
Reg. Ent. Ref. No.	RN103014445		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37892	No. of Violations	2
Docket No.	2009-1041-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		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* **\$1,100**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 25.0% Enhancement *Subtotals 2, 3, & 7* **\$275**

Notes: An enhancement is recommended due to one NOV with violations same or similar to those cited in this action and four self-reported effluent violations.

**Culpability** No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* **\$250**

**Economic Benefit** 0.0% Enhancement\* *Subtotal 6* **\$0**

Total EB Amounts \$35  
Approx. Cost of Compliance \$1,510  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$1,125**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

*Final Penalty Amount* **\$1,125**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$1,125**

**DEFERRAL** 20.0% Reduction *Adjustment* **-\$225**

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** **\$900**

**Screening Date** 3-Jul-2009

**Docket No.** 2009-1041-MWD-E

**PCW**

**Respondent** Texas Airstream Harbor, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 37892

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN103014445

**Media [Statute]** Water Quality

**Enf. Coordinator** Lanae Foard

### 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)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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)** 25%

>> **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**

An enhancement is recommended due to one NOV with violations same or similar to those cited in this action and four self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

**Screening Date** 3-Jul-2009 **Docket No.** 2009-1041-MWD-E **PCW**  
**Respondent** Texas Airstream Harbor, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 37892 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103014445  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Lanae Foard

**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. WQ0011896001, Effluent Limitations and Monitoring Requirements No. 1  
**Violation Description** Failed to comply with permitted effluent limits, as documented during a record review on May 28, 2009 and as shown in the attached violation table.  
**Base Penalty** \$10,000

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

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor

Percent 0%

**Matrix Notes**  
 A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events: 1      59 Number of violation days  
 mark only one with an x  
 daily  
 weekly  
 monthly  
 quarterly X  
 semiannual  
 annual  
 single event

**Violation Base Penalty** \$1,000

One quarterly event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction \$250

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

**Notes** The Respondent came back into compliance during May 2009.

**Violation Subtotal** \$750

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$35 **Violation Final Penalty Total** \$1,000

**This violation Final Assessed Penalty (adjusted for limits)** \$1,000

### Economic Benefit Worksheet

**Respondent:** Texas Airstream Harbor, Inc.  
**Case ID No.:** 37892  
**Reg. Ent. Reference No.:** RN103014445  
**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
<small>No commas or \$</small>							

**Delayed Costs**

Equipment	\$1,500	31-Jan-2009	31-May-2009	0.33	\$2	\$33	\$35
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Cost to purchase a generator to prevent future power outages. Date required is the first date of noncompliance.  
 Final date is the 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

\$1,500

**TOTAL**

\$35

<b>Screening Date:</b> 3-Jul-2009	<b>Docket No.:</b> 2009-1041-MWD-E	<b>PCW</b>		
<b>Respondent:</b> Texas Airstream Harbor, Inc.	<small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>			
<b>Case ID No.:</b> 37892				
<b>Reg. Ent. Reference No.:</b> RN103014445				
<b>Media [Statute]:</b> Water Quality				
<b>Enf. Coordinator:</b> Lanae Foard				
<b>Violation Number:</b> 2				
<b>Rule Cite(s):</b> 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0041895001, Monitoring and Reporting Requirements No. 1				
<b>Violation Description:</b>	Failed to submit the discharge monitoring report ("DMR") data for total suspended solids for the monitoring period ending August 31, 2008, by the 20th day of the following month, as documented during an investigation conducted on May 26, 2009.			
<b>Base Penalty:</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent:</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major      Moderate      Minor				
<input type="text"/> <input type="text"/> <input type="text"/> <input checked="" type="text" value="x"/>				
				<b>Percent:</b> <input type="text" value="1%"/>
<b>Matrix Notes</b>	More than 70% of permit requirement was met.			
<b>Adjustment:</b>			\$9,900	
			\$100	
<b>Violation Events</b>				
<b>Number of Violation Events:</b> <input type="text" value="1"/>		<b>Number of violation days:</b> <input type="text" value="31"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty:</b> <input type="text" value="\$100"/>	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
One single event is recommended for the month of August 2008.				
<b>Good Faith Efforts to Comply</b>			<b>0.0% Reduction</b> <input type="text" value="\$0"/>	
			<small>Before NOV      NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal:</b>			\$100	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
<b>Estimated EB Amount:</b> <input type="text" value="\$1"/>		<b>Violation Final Penalty Total:</b> <input type="text" value="\$125"/>		
<b>This violation Final Assessed Penalty (adjusted for limits):</b>			<input type="text" value="\$125"/>	

### Economic Benefit Worksheet

**Respondent:** Texas Airstream Harbor, Inc.  
**Case ID No.:** 37892  
**Reg. Ent. Reference No.:** RN103014445  
**Media:** Water Quality  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$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	\$10	20-Sep-2008	1-Feb-2010	1.37	\$1	n/a	\$1
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a revised DMR to the TCEQ. Date required is the date the DMR data was due. 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

\$10

**TOTAL**

\$1

EFFLUENT VIOLATION TABLE		
Texas Airstream Harbor, Inc.		
TPDES Permit No. WQ0011895001		
Docket No. 2009-1041-MWD-E		
Permitted Effluent Limits	Monitoring Period End Date	
	1/31/09	2/28/09
BOD daily avg. conc. limit = 10 mg/L	17.1	10.1
TSS daily avg. conc. limit = 15 mg/L	102.0	17.5
TSS single grab conc. limit = 60 mg/L	102.0	118.0

BOD = biochemical oxygen demand

TSS - total suspended solids

mg/L = milligrams per liter

conc. = concentration

avg. = average



# Compliance History Report

Customer/Respondent/Owner-Operator: CN602286022 Texas Airstream Harbor, Inc. Classification: AVERAGE Rating: 0.58  
 Regulated Entity: RN103014445 Texas Airstream Harbor Classification: AVERAGE Site Rating: 0.58

ID Number(s): WASTEWATER PERMIT WQ0011895001  
 WASTEWATER PERMIT TPDES0068039  
 WASTEWATER PERMIT TX0068039  
 WASTEWATER LICENSING LICENSE WQ0011895001

Location: Approximately 0.5 mile northwest of State Highway 147 at a point approximately 300 feet southerly from the shoreline of Sam Rayburn Reservoir and approximately 5 miles northeast of the City of Zavalla in Angelina County, Texas.

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: July 02, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 02, 2004 to July 02, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Lanae Foard Phone: 512-239-2554

### 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.

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	08/30/2004	(358369)
2	08/30/2004	(358370)
3	08/31/2004	(358371)
4	10/21/2004	(358372)
5	10/28/2004	(338226)
6	11/01/2004	(385314)
7	12/06/2004	(342809)
8	12/27/2004	(444189)
9	01/31/2005	(385315)
10	03/16/2005	(385313)
11	03/21/2005	(374196)
12	04/18/2005	(423364)
13	04/18/2005	(423365)
14	04/28/2005	(423367)
15	05/04/2005	(423366)
16	05/04/2005	(423368)
17	05/04/2005	(423369)
18	06/13/2005	(395002)
19	10/14/2005	(474580)
20	10/14/2005	(474581)
21	10/14/2005	(474582)
22	10/14/2005	(474583)
23	10/14/2005	(474588)
24	11/21/2005	(474584)

25	11/21/2005	(474585)
26	11/21/2005	(474587)
27	12/22/2005	(474588)
28	02/23/2006	(474578)
29	02/23/2006	(474589)
30	03/20/2006	(474579)
31	05/04/2006	(502363)
32	05/25/2006	(502364)
33	06/22/2006	(502365)
34	07/27/2006	(524682)
35	08/21/2006	(524683)
36	10/16/2006	(583570)
37	11/20/2006	(583571)
38	11/20/2006	(583572)
39	01/08/2007	(583573)
40	02/01/2007	(583574)
41	06/21/2007	(583589)
42	07/17/2007	(603984)
43	08/16/2007	(603985)
44	08/30/2007	(603986)
45	10/19/2007	(622862)
46	10/19/2007	(622863)
47	12/12/2007	(622864)
48	12/20/2007	(622865)
49	04/28/2008	(692655)
50	05/30/2008	(692656)
51	07/03/2008	(713787)
52	07/24/2008	(713788)
53	08/21/2008	(713789)
54	08/26/2008	(700006)
55	09/29/2008	(713790)
56	10/27/2008	(729798)
57	11/24/2008	(729799)
58	12/22/2008	(729800)
59	01/28/2009	(753021)
60	02/19/2009	(753020)
61	03/31/2009	(737096)
62	06/26/2009	(746974)

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

Date: 03/31/2006 (502363) CN602296022

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: 04/30/2006 (502364) CN602296022

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: 08/26/2008 (700006) CN602296022

Self Report? NO Classification: Minor  
Citation: SP PERMIT

Description: Failure by Texas Alstream Harbor, Inc. to submit a copy of the Annual Sludge Report (ASR) to the TCEQ Beaumont Regional Office.

Self Report? NO Classification: Moderate

Citation: MRR PERMIT

Description: Failure by Texas Alstream Harbor, Inc. to maintain sludge disposal records.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

OpR PERMIT

Description: Failure by Texas Alstream Harbor, Inc. to properly operate and maintain the aeration basin and the clarifier.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.7(e)

Description: Failure by Texas Alstream Harbor, Inc. to control access to treatment units of the wastewater treatment plant.

Self Report? NO Classification: Minor

Citation: ELMR PERMIT

Description: Failure by Texas Airstream Harbor, Inc. to discharge effluent compliant with permit limits.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.5(a)  
ELMR PERMIT

Description: Failure by Texas Airstream Harbor, Inc. to collect samples following the final treatment unit.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
MRR PERMIT

Description: Failure by Texas Airstream Harbor, Inc. to have discharge monitoring reports (DMR) available for review.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
MRR PERMIT

Description: Failure by Texas Airstream Harbor, Inc. to submit and accurately complete discharge monitoring reports (DMR).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
30 TAC Chapter 319, SubChapter A 319.7(c)  
MRR PERMIT

Description: Failure by Texas Airstream Harbor, Inc. to maintain calibration logs.

Self Report? NO Classification: Minor

Citation: MRR PERMIT

Description: Failure by Texas Airstream Harbor, Inc. to check the colorimeter used for chlorine residual analysis against secondary standards.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
OpR PERMIT

Description: Failure to properly operate and maintain effluent piping to Sam Rayburn Reservoir.

Date: 01/31/2009 CN602296022

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: 02/28/2009 CN602296022

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

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  
TEXAS AIRSTREAM HARBOR, INC.  
RN103014445

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-1041-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 Texas Airstream Harbor, Inc. ("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 0.5 mile northwest of State Highway 147 at a point approximately 300 feet southerly from the shoreline of Sam Rayburn Reservoir and approximately five miles northeast of Zavalla, in Angelina 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 July 1, 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 One Thousand One Hundred Twenty-Five Dollars (\$1,125) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Hundred Dollars (\$900) of the administrative penalty and Two Hundred Twenty-Five Dollars (\$225) 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 during May 2009, the Respondent purchased a generator to prevent effluent violations due to power failures and achieved compliance with all permitted effluent limitations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to comply with permitted effluent limits, 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. WQ0011895001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on May 26, 2009 and as shown in the following violation table:

EFFLUENT VIOLATION TABLE		
Permitted Effluent Limits	Monitoring Period End Date	
	1/31/09	2/28/09
BOD daily avg. conc. limit = 10 mg/L	17.1	10.1
TSS daily avg. conc. limit = 15 mg/L	102.0	17.5
TSS single grab conc. limit = 60 mg/L	102.0	118.0

BOD = biochemical oxygen demand

TSS = total suspended solids

mg/L = milligrams per liter

conc. = concentration

avg. = average

- Failed to submit the discharge monitoring report ("DMR") data for total suspended solids for the monitoring period ending August 31, 2008, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 26, 2009.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

- 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: Texas Airstream Harbor, Inc., Docket No. 2009-1041-MWD-E" to:

Financial Administration Division, Revenues Section  
 Attention: Cashier's Office, MC 214  
 Texas Commission on Environmental Quality  
 P.O. Box 13088  
 Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit the DMR data for total suspended solids for the monitoring period ending August 31, 2008, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

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

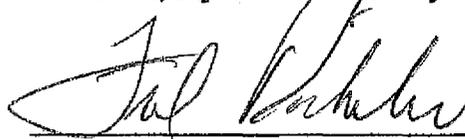
\_\_\_\_\_  
Date 10/30/2009

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 9-11-09

FRED Richardson - Board MEMBER  
Name (Printed or typed)  
Authorized Representative of  
Texas Airstream Harbor, Inc.

Board Member  
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.