

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1618-MWD-E TCEQ ID: RN101608081 CASE NO.: 36720

RESPONDENT NAME: Fin & Feather Lodge 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: Fin & Feather WWTP, on the shoreline of Toledo Bend Reservoir approximately 500 feet north of Farm-to-Market Road 2928 and 1.2 miles due north of Oakhill Cemetery, Sabine County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 16, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. John T. Broughton, Water/Wastewater Supervisor, Fin & Feather Lodge LLC, 2418 Black Gold Court, Houston, Texas 77073 Mr. William D. Abbott, Member, Fin & Feather Lodge LLC, 2418 Black Gold Court, Houston, Texas 77073 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: September 23, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 2, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failed to comply with permit effluent limits for total suspended solids and biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012143001 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$3,200</p> <p>Total Deferred: \$640 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,560</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>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 permitted effluent limitations of TPDES Permit No. WQ0012143001, and include a list of the 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 limitation.</p>

Additional ID No(s): WQ0012143001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	6-Oct-2008	Screening	9-Oct-2008	EPA Due	
	PCW	28-Oct-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Fin & Feather Lodge LLC		
Reg. Ent. Ref. No.	RN101608081		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36720	No. of Violations	1
Docket No.	2008-1618-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		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	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	60.0% Enhancement	Subtotals 2, 3, & 7	\$1,200
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Notes: An enhancement is recommended because the Respondent has received 12 NOVs for the same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$167
 Approx. Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,200
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STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$3,200
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DEFERRAL

20.0% Reduction

Adjustment	-\$640
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,560
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Screening Date 9-Oct-2008

Docket No. 2008-1618-MWD-E

PCW

Respondent Fin & Feather Lodge LLC

Policy Revision 2 (September 2002)

Case ID No. 36720

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101608081

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	12	60%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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) 60%

>> 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 because the Respondent has received 12 NOV's for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date 9-Oct-2008	Docket No. 2008-1618-MWD-E	PCW	
Respondent Fin & Feather Lodge LLC	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36720	<small>PCW Revision June 12, 2008</small>		
Reg. Ent. Reference No. RN101608081			
Media [Statute] Water Quality			
Enf. Coordinator Harvey Wilson			
Violation Number <input type="text" value="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. WQ0012143001 Effluent Limitations and Monitoring Requirements No. 1.		
Violation Description	Failed to comply with permit limits for total suspended solids and biochemical oxygen demand, as documented during a record review conducted on September 23, 2008 (see attached table).		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="10%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
Matrix Notes	A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. 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 levels that are protective of human health or environmental receptors.		
Adjustment			<input type="text" value="\$9,000"/>
			<input type="text" value="\$1,000"/>
Violation Events			
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="151"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
			Violation Base Penalty <input type="text" value="\$2,000"/>
Two quarterly events are recommended.			
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
	Extraordinary	<input type="text"/>	
	Ordinary	<input type="text"/>	
	N/A	<input checked="" type="checkbox"/> (mark with x)	
Notes	The Respondent does not meet the criteria for good faith for this violation.		
Violation Subtotal			<input type="text" value="\$2,000"/>
Economic Benefit (EB) for this violation		Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$157"/>	Violation Final Penalty Total <input type="text" value="\$3,200"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$3,200"/>

Economic Benefit Worksheet

Respondent Fin & Feather Lodge LLC
Case ID No. 36720
Reg. Ent. Reference No. RN101608081
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	\$1,500	1-Feb-2008	31-Jul-2009	1.50	\$7	\$150	\$157
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

The cost to modernize the treatment facility by replacing the old aerators. Date Required is the date the non compliance was documented. 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

\$1,500

TOTAL

\$157

Docket No. 2008-1618-MWD-E
RN101608081; WQ0012143001

Fin and Feather Lodge LLC

Violation Table

	Total Suspended Solids Avg Daily Concentration, 15 mg/L'	Total Suspended Solids Avg Daily Loading limit 1.9 lbs/day	Biochemical Oxygen Demand, Daily Avg Concentration 10 mg/L	Biochemical Oxygen Demand, Single Grab 35 mg/L
February 2008	28.5	C	10.3	C
March 2008	28.8	C	18.6	43.2
April 2008	42.3	C	C	C
May 2008	24.3	C	C	C
June 2008	21.8	2.84	C	C

C = compliant mg/L = milligrams per liter Avg = average lbs/day = pounds per day

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603314154	Fin & Feather Lodge LLC	Classification: AVERAGE	Rating: 0.90
Regulated Entity:	RN101608081	FIN & FEATHER WWTP	Classification: AVERAGE	Site Rating: 0.90
ID Number(s):	WASTEWATER	PERMIT		WQ0012143001
	WASTEWATER	PERMIT		TPDES0079812
	WASTEWATER	PERMIT		TX0079812
	WASTEWATER LICENSING	LICENSE		WQ0012143001
Location:	On the shoreline of Toledo Bend Reservoir approx 500 Ft North of FM 2928 and 1.2 miles North of Oakhill Cemetery in Sabine County			Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	October 07, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 07, 2003 to October 07, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Harvey Wilson	Phone:	239 - 0321	

Site Compliance History Components

- | | |
|--|-------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Fin & Feather Lodge LLC |
| 4. If Yes, who was/were the prior owner(s)? | Doris Kay Head |
| 5. When did the change(s) in ownership occur? | 31-Jan-08 |

Components (Multimedia) for the Site :

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

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	10/17/2003	(315412)
2	11/25/2003	(255513)
3	12/01/2003	(315413)
4	01/02/2004	(315414)
5	01/29/2004	(315415)
6	02/05/2004	(262096)
7	03/11/2004	(315405)
8	04/12/2004	(315406)
9	04/26/2004	(360443)
10	06/14/2004	(360444)
11	06/21/2004	(360445)
12	08/23/2004	(360447)
13	08/24/2004	(360446)
14	10/05/2004	(360448)

15	10/22/2004	(291439)
16	11/24/2004	(386562)
17	11/24/2004	(386563)
18	01/26/2005	(386564)
19	01/31/2005	(386565)
20	07/21/2005	(424396)
21	07/21/2005	(424397)
22	07/21/2005	(424398)
23	07/21/2005	(424399)
24	07/21/2005	(424400)
25	08/23/2005	(445168)
26	09/19/2005	(445169)
27	10/21/2005	(476301)
28	03/22/2006	(476300)
29	04/20/2006	(503413)
30	05/15/2006	(503414)
31	06/21/2006	(503415)
32	07/17/2006	(525790)
33	08/14/2006	(525791)
34	09/21/2006	(525792)
35	10/25/2006	(585954)
36	11/21/2006	(585955)
37	12/13/2006	(585956)
38	01/10/2007	(585957)
39	02/22/2007	(585949)
40	03/16/2007	(585950)
41	04/19/2007	(585951)
42	05/14/2007	(585952)
43	06/26/2007	(585953)
44	07/20/2007	(623958)
45	08/20/2007	(623959)
46	09/05/2007	(572037)
47	09/24/2007	(623960)
48	10/22/2007	(623961)
49	10/31/2007	(623962)
50	12/13/2007	(623963)
51	01/22/2008	(675086)
52	02/22/2008	(675084)
53	03/24/2008	(675085)
54	05/01/2008	(693439)
55	05/22/2008	(693440)
56	10/02/2008	(703653)

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

Date: 11/26/2003 (255513)

Self Report? NO Classification: Moderate

Rqmt Prov: OP 12143-001

Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.

Self Report? NO Classification: Moderate

Rqmt Prov: OP 12143-001

Description: Failure to maintain a chlorine residual between 1.0 and 4.0 mg/L.

Self Report? NO Classification: Moderate

Rqmt Prov: OP 12143-001

Description: Failure by the permittee to maintain a pH between 6.0 and 9.0 S.U.

Self Report? NO Classification: Minor

Rqmt Prov: OP 12143-001

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly

operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 12143-001

Description: Failure to report all >40% noncompliances

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 12143-001

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 12143-001

Description: Failure to include all necessary information in >40% notifications

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 12143-001

Description: Failure to comply with 30 TAC 319.11-319.12.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 12143-001

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 02/28/2006 (476300)

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: 09/30/2006 (585954)

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: 04/30/2007 (585952)

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: 09/05/2007 (572037)

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT OT 1

Description: Failure by the permittee to employ a licensed operator with a valid license to operate the wastewater treatment facility.

Self Report? NO Classification: Minor

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

30 TAC Chapter 317 317.2

Rqmt Prov: PERMIT OpR 1

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT EL&MR 2&6

Description: Failure by the permittee to discharge effluent that is compliant with permitted limitations.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 2

Description: Failure by the permittee to ensure that all measurements are accurately accomplished in a representative manner.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report?	NO	Classification:	Moderate
Rqmt Prov:	PERMIT M&RR 7c		
Description:	Failure by the permittee to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT M&RR 2		
Description:	Failure by the permittee to calibrate the dissolved oxygen (DO) meter and the check the chlorine meter with secondary standards.		
Self Report?	NO	Classification:	Minor
Rqmt Prov:	PERMIT PC 1a		
Description:	Failure by the permittee to report the correct analytical results on the discharge monitoring reports (DMRs).		
Date:	09/30/2007	(623961)	
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:	12/31/2007	(675086)	
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:	02/29/2008	(675085)	
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:	03/31/2008	(693439)	
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:	04/30/2008	(693440)	
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:	05/31/2008		
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:	06/30/2008		
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
FIN & FEATHER LODGE LLC
RN101608081**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-1618-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 Fin & Feather Lodge LLC ("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 on the shoreline of Toledo Bend Reservoir approximately 500 feet north of Farm-to-Market Road 2928 and 1.2 miles due north of Oakhill Cemetery in Sabine County, Texas (the "Facility").
2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 7, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Two Hundred Dollars (\$3,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Five Hundred Sixty Dollars (\$2,560) of the

administrative penalty and Six Hundred Forty Dollars (\$640) 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 permit 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. WQ0012143001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 23, 2008, as indicated in the table below:

	Total Suspended Solids Avg Daily Concentration, 15 mg/L	Total Suspended Solids Avg Daily loading limit 1.9 lbs/day	Biochemical Oxygen Demand, Daily Avg concentration 10 mg/L	Biochemical Oxygen Demand, Single Grab 35 mg/L
February 2008	28.5	C	10.3	C
March 2008	28.8	C	18.6	43.2
April 2008	42.3	C	C	C
May 2008	24.3	C	C	C
June 2008	21.8	2.84	C	C

C = compliant mg/L = milligrams per liter Avg = average lbs/day = pounds per day

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: Fin & Feather Lodge LLC, Docket No. 2008-1618-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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012143001, and include a list of the 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 limitation. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]
For the Executive Director

2/16/2009
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.

William D. Abbott
Signature

01/07/08
Date

WILLIAM D. ABBOTT
Name (Printed or typed)
Authorized Representative of
Fin & Feather Lodge LLC

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.

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Handwritten signature or name on the left side of the page.

Handwritten signature or name on the right side of the page.

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