

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1705-MWD-E **TCEQ ID:** RN102915378 **CASE NO.:** 36716

RESPONDENT NAME: JWR-HO, L.P.

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|----------------------------------------------------------------------|
| 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: Southgate Wastewater Treatment Plant, located 300 feet west of Interstate Highway 45 and 600 feet north of Northville Road, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 April 8, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Thu Binh Ho, President, JWR-HO, L.P., 1625 Kirby Drive, Houston, Texas 77019 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

| VIOLATION SUMMARY CHART: | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 10, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 19, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to obtain a Texas Pollutant Discharge Elimination System (TPDES) permit as required [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.42(a)].</p> | <p>Total Assessed: \$3,760</p> <p>Total Deferred: \$752 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$3,008</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on August 6, 2008, the Respondent submitted an administratively complete permit application for authorization to discharge wastewater under a TPDES permit.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>b) Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.</p> |

Additional ID No(s): 0



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

| | | | | | | |
|--------------|----------|-------------|-----------|------------|---------|--|
| DATES | Assigned | 25-Aug-2008 | Screening | 6-Oct-2008 | EPA Due | |
| | PCW | 14-Oct-2008 | | | | |

| | |
|----------------------------------------|--------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | JWR-HO, L.P. |
| Reg. Ent. Ref. No. | RN102915378 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36716 | No. of Violations | 1 |
| Docket No. | 2008-1705-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Steve Villatoro |
| | | 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 | \$4,000 |
|-------------------------------------------------------------|-------------------|----------------|

| | | |
|------------------------------------------------------------------------------------------------------------|-------------------|--------------------------------|
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | | |
| Compliance History | -6.0% Enhancement | Subtotals 2, 3, & 7 |
| | | -\$240 |

Notes: Recommended reduction due to High Performer classification and enhancement due to two NOVs with unrelated 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 | \$0 |
|------------------------------------------------------|-------------------|------------|

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

Total EB Amounts: \$226
 Approx. Cost of Compliance: \$3,250
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$3,760 |
|-----------------------------|-----------------------|----------------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$3,760 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$3,760 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|-----------------|-------------------|---------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$752 |
|-----------------|-----------------|-------------------|---------------|

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 | \$3,008 |
|------------------------|----------------|

Screening Date 6-Oct-2008

Docket No. 2008-1705-MWD-E

PCW

Respondent JWR-HO, L.P.

Policy Revision 2 (September 2002)

Case ID No. 36716

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102915378

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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) | 0 | 0% |
| | Other written NOVs | 2 | 4% |
| 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% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 4%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

Recommended reduction due to High Performer classification and enhancement due to two NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -6%

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Screening Date 6-Oct-2008 Respondent JWR-HO, L.P. Case ID No. 36716 Reg. Ent. Reference No. RN102915378 Media [Statute] Water Quality Enf. Coordinator Steve Villatoro Violation Number <input type="text" value="1"/> Rule Cite(s) <input type="text" value="Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 305.42(a)"/> Violation Description <input as="" authorization."="" discharging="" facility="" permit="" required.="" specifically,="" the="" tpdes")="" type="text" value="Failed to obtain a Texas Pollutant Discharge Elimination System (" was="" wastewater="" without=""/> | Docket No. 2008-1705-MWD-E <div style="text-align: right;">PCW</div> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 12, 2008</i> |
| Base Penalty <input type="text" value="\$10,000"/> | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|------------------|----------------------|----------------------|------------------------------------------------|----------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | | <input type="text"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | | | | Percent <input type="text" value="0%"/> | |

>> Programmatic Matrix

| | | | | | |
|---------------------|------------------------------------------------------------------------|-------------------------------------|----------------------|--------------------------------------------------------|----------------------|
| | Falsification | | | | |
| | | Major | Moderate | | Minor |
| | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | | <input type="text"/> |
| | | | | Percent <input type="text" value="10%"/> | |
| Matrix Notes | <input type="text" value="100% of the rule requirement was not met."/> | | | | |
| | | | | Adjustment <input type="text" value="\$9,000"/> | |

Violation Events

| | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------------------------------------------------|--------------------------------------------------------------------|
| Number of Violation Events <input type="text" value="4"/> | | Number of violation days <input type="text" value="118"/> | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | |
| | monthly | <input checked="" type="checkbox"/> | |
| | quarterly | <input type="text"/> | |
| | semiannual | <input type="text"/> | |
| | annual | <input type="text"/> | |
| | single event | <input type="text"/> | |
| | | | Violation Base Penalty <input type="text" value="\$4,000"/> |
| <input type="text" value="Four monthly events are recommended from the investigation date (June 10, 2008) to the screening date (October 6, 2008)."/> | | | |

Good Faith Efforts to Comply

| | | | | |
|--------------|-------------------------------------------------------------------------------------------------------|-------------------------------------|--------------------------------------|----------------------------------------------------------------|
| | Before NOV | | NOV to EDPRP/Settlement Offer | |
| | Extraordinary | <input type="text"/> | <input type="text"/> | |
| | Ordinary | <input type="text"/> | <input type="text"/> | |
| | N/A | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <small>(mark with x)</small> |
| Notes | <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/> | | | |
| | | | | Violation Subtotal <input type="text" value="\$4,000"/> |

| | |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$226"/> | Violation Final Penalty Total <input type="text" value="\$3,760"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,760"/> | |

Economic Benefit Worksheet

Respondent JWR-HO, L.P.
Case ID No. 36716
Reg. Ent. Reference No. RN102915378
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

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 | \$3,250 | 10-Jun-2008 | 31-Oct-2009 | 1.39 | \$226 | n/a | \$226 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs of preparing and submitting a new permit application to obtain authorization to discharge wastewater. Date required is the investigation date and Final Date is date of expected 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 | \$3,250 | TOTAL | \$226 |
|----------------------------|---------|--------------|-------|

Compliance History Report

Customer/Respondent/Owner-Operator: CN603315755 JWR-HO, L.P. Classification: HIGH Rating: 0.06
Regulated Entity: RN102915378 SOUTHGATE WWTP Classification: HIGH Site Rating: 0.06
ID Number(s): WASTEWATER PERMIT TPDES0107158
WASTEWATER PERMIT TX0107158
WASTEWATER PERMIT WQ0014921001
WASTEWATER LICENSING LICENSE WQ0013560001
Location: located 300 feet west of Interstate Highway 45 and 600 feet north of Northville Road in Harris County, Texas. Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: October 09, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 09, 2003 to October 09, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Steve Villatoro Phone: 239 - 4930

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? JWR-HO, L.P.
4. If Yes, who was/were the prior owner(s)? Jack Cheng Lee
5. When did the change(s) in ownership occur? 5/1/2007

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 | 10/14/2003 | (323530) |
| 2 | 11/03/2003 | (323531) |
| 3 | 11/19/2003 | (323532) |
| 4 | 01/05/2004 | (323533) |
| 5 | 01/26/2004 | (323534) |
| 6 | 03/30/2004 | (323522) |
| 7 | 04/12/2004 | (323523) |
| 8 | 05/13/2004 | (364696) |
| 9 | 06/14/2004 | (323526) |
| 10 | 07/12/2004 | (364697) |
| 11 | 08/09/2004 | (364698) |
| 12 | 10/04/2004 | (364700) |
| 13 | 10/13/2004 | (364699) |
| 14 | 11/01/2004 | (364701) |
| 15 | 11/22/2004 | (335589) |
| 16 | 11/29/2004 | (388884) |
| 17 | 01/18/2005 | (388885) |
| 18 | 01/28/2005 | (388886) |
| 19 | 03/07/2005 | (388882) |
| 20 | 03/31/2005 | (388883) |
| 21 | 04/06/2005 | (376593) |
| 22 | 05/25/2005 | (426487) |
| 23 | 06/20/2005 | (426488) |
| 24 | 07/14/2005 | (446764) |
| 25 | 08/05/2005 | (446765) |
| 26 | 09/12/2005 | (446766) |
| 27 | 10/07/2005 | (490490) |
| 28 | 10/24/2005 | (490491) |
| 29 | 12/07/2005 | (490492) |
| 30 | 12/27/2005 | (490493) |
| 31 | 01/26/2006 | (490494) |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JWR-HO, L.P.
RN102915378

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§
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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1705-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 JWR-HO, L.P. ("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 system located 300 feet west of Interstate Highway 45 and 600 feet north of Northville Road in Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 24, 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 Seven Hundred Sixty Dollars (\$3,760) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Eight Dollars (\$3,008) of the administrative penalty and Seven Hundred Fifty-Two Dollars (\$752) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on August 6, 2008, the Respondent submitted an administratively complete permit application for authorization to discharge wastewater under a Texas Pollutant Discharge Elimination System ("TPDES") permit.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- ~~12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.~~

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to obtain a TPDES permit as required, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.42(a), as documented during an investigation conducted on June 10, 2008. Specifically, the Facility was discharging wastewater without authorization.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: JWR-HO, L.P., Docket No. 2008-1705-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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
 - b. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. ~~Written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and 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:

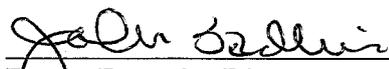
Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk St., Ste. H
Houston, Texas 77023-1425

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

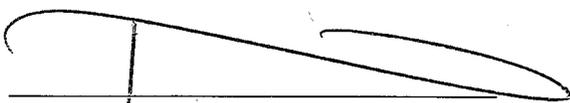
3/9/2009
Date

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

1/15/09
Date

Thu Binh Ho

Name (Printed or typed)
Authorized Representative of
JWR-HO, L.P.

Partner

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

