

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1754-MWD-E **TCEQ ID:** RN103015376 **CASE NO.:** 36783

RESPONDENT NAME: Forest Glen, Inc.

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: Forest Glen Plant, located approximately 6 miles southeast of the intersection of U.S. Highway 190 and Farm-to-Market Road 2296, Huntsville, Walker County</p> <p>TYPE OF OPERATION: Domestic 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 March 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC -169, (512) 239-5806; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. John Davidhizar, Executive Director, Forest Glen, Inc., 34 Forest Glen, Huntsville, Texas 77340 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 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 27, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11844001, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to timely submit Discharge Monitoring Reports ("DMRs") at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. 11844001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$4,485</p> <p>Total Deferred: \$897 <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: \$3,588</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent submitted the September 2007 DMR on November 18, 2008.</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. 11844001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ 11844001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Nov-2008			
	PCW	20-Nov-2008	Screening	6-Nov-2008	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	Forest Glen, Inc.		
Reg. Ent. Ref. No.	RN103015376		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36783	No. of Violations	2
Docket No.	2008-1754-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	J. Craig Fleming
		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	\$3,100
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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	45.0% Enhancement	Subtotals 2, 3, & 7	\$1,395
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Notes: An enhancement is recommended for having seven NOVs for self-reported effluent violations, and two NOVs with same/similar violations that were not self-reported.

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	\$10
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$403	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,200	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,485
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$4,485
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,485
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DEFERRAL	20.0% Reduction	Adjustment	-\$897
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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	\$3,588
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Screening Date 6-Nov-2008

Docket No. 2008-1754-MWD-E

PCW

Respondent Forest Glen, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36783

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103015376

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

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)	9	45%
	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 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) 45%

>> 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 for having seven NOVs for self-reported effluent violations, and two NOVs with same/similar violations that were not self-reported.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 6-Nov-2008 **Docket No.** 2008-1754-MWD-E **PCW**
Respondent Forest Glen, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 36783 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103015376
Media [Statute] Water Quality
Enf. Coordinator J. Craig Fleming

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11844001, Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permit effluent limits, as documented in a record review conducted on September 8, 2008. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes
 A simplified model was utilized to evaluate the values for NH3-N and flow to determine whether the discharged amount of the pollutants (NH3-N) exceeded the levels protective of human health or environmental receptors. The amounts discharged at the time of the violation were insignificant and did not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 151 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

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

Estimated EB Amount \$397 Violation Final Penalty Total \$4,350

This violation Final Assessed Penalty (adjusted for limits) \$4,350

Economic Benefit Worksheet

Respondent Forest Glen, Inc.
Case ID No. 36783
Reg. Ent. Reference No. RN103015376
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	\$4,600	1-Aug-2007	31-Aug-2008	1.08	\$17	\$333	\$349
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)	\$500	1-Aug-2007	1-Jul-2009	1.92	\$48	n/a	\$48

Notes for DELAYED costs

The estimated cost (\$100 per month) for the five months that additional oversight and sampling which could have reduced or alleviated the exceedances; and the estimated cost to replace two grinder pumps (\$1,800 each), and repair one grinder pump (\$1,000). The Date Required was the first day of the exceedances. The Final Date is the date the pumps were repaired/replaced and the expected date of compliance for the exceedance limits.

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

N/A

Approx. Cost of Compliance

\$5,100

TOTAL

\$397

Screening Date 6-Nov-2008	Docket No. 2008-1754-MWD-E	PCW
Respondent Forest Glen, Inc.		Policy Revision 2 (September 2002)
Case ID No. 36783		PCW Revision October 30, 2008
Reg. Ent. Reference No. RN103015376		
Media [Statute] Water Quality		
Enf. Coordinator J. Craig Fleming		

Violation Number	2
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(17) and 319.7(d), and TPDES Permit No. 11844001, Monitoring and Reporting Requirements No. 1
Violation Description	Failed to timely submit monthly discharge monitoring reports ("DMR") at the intervals specified in the permit. Specifically, the monthly discharge monitoring report for the month of September 2007 was due by October 20, 2007 and was submitted on November 18, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			
				Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
				X	Percent 1%

Matrix Notes Greater than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 384 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$10

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

Notes The Respondent submitted the September 2007 DMR on November 18, 2008.

Violation Subtotal \$90

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

Estimated EB Amount \$5 Violation Final Penalty Total \$135

This violation Final Assessed Penalty (adjusted for limits) \$135

Economic Benefit Worksheet

Respondent Forest Glen, Inc.
Case ID No. 36783
Reg. Ent. Reference No. RN103015376
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Oct-2007	18-Nov-2008	1.08	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost for submitting (\$100) the monthly DMR. The Date Required was the date requiring the September DMR report to be submitted. The 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

NA

Approx. Cost of Compliance

\$100

TOTAL

\$5

Forest Glen, Inc.
 TPDES Permit No. 11844001
 Docket No. 2008-1754-MWD-E

Effluent Violation Table			
Permitted Effluent Limits	Effluents Monitored		
	Daily Avg. Ammonia-Nitrogen 3.0 mg/L	Daily Max. Ammonia-Nitrogen 15 mg/L	Daily Average Loading Ammonia-Nitrogen 0.5 lbs/day
August 2007	13.3 mg/L	36.4 mg/L	0.76 lbs/day
January 2008	4.8 mg/L	19.0 mg/L	C
February 2008	5.2 mg/L	C	C
March 2008	4.0 mg/L	C	C
April 2008	24.8 mg/L	35.6 mg/L	C

mg/L= milligrams per Liter	Avg. = Average	Max. = Maximum	C = Compliant	lbs/day = pounds per day
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THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
LABORATORY OF ORGANIC CHEMISTRY

WILSON, R. M. - 1951

1. The first part of the report describes the synthesis of a series of substituted benzene derivatives. The starting material was benzene, which was subjected to various substitution reactions. The products were then characterized by their physical and chemical properties.

2. The second part of the report discusses the reaction of these substituted benzenes with various reagents. The results show that the substituents have a significant effect on the reactivity of the benzene ring.

3. The third part of the report describes the synthesis of a series of substituted benzene derivatives. The starting material was benzene, which was subjected to various substitution reactions. The products were then characterized by their physical and chemical properties.

4. The fourth part of the report discusses the reaction of these substituted benzenes with various reagents. The results show that the substituents have a significant effect on the reactivity of the benzene ring.

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600655666	Forest Glen Inc	Classification: AVERAGE	Rating: 0.77
Regulated Entity:	RN103015376	FOREST GLEN PLANT	Classification: AVERAGE	Site Rating: 0.77
	WASTEWATER		PERMIT	WQ0011844001
	WASTEWATER		PERMIT	TPDES0071765
	WASTEWATER		PERMIT	TX0071765
	WASTEWATER LICENSING		LICENSE	WQ0011844001
Location:	LOCATED APPROXIMATELY 6 MILES SOUTHEAST OF THE INTERSECTION OF U.S. HIGHWAY 190 AND FARM-TO- MARKET ROAD 2296 IN WALKER COUNTY, TEXAS		Rating Date: 9/1/2008 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	November 05, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 05, 2003 to November 05, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	J. Craig Fleming		Phone:	239 - 5806

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

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	11/12/2003	(312288)
2	12/15/2003	(312289)
3	01/20/2004	(312290)
4	02/23/2004	(312281)
5	03/22/2004	(312282)
6	04/12/2004	(312283)
7	05/12/2004	(358998)
8	06/15/2004	(312284)
9	07/15/2004	(358999)
10	08/16/2004	(359000)
11	10/14/2004	(359001)
12	10/14/2004	(359002)
13	11/29/2004	(385692)
14	01/10/2005	(385694)
15	02/17/2005	(385690)
16	02/17/2005	(385693)
17	03/07/2005	(385691)
18	04/18/2005	(423655)
19	05/20/2005	(423656)
20	06/13/2005	(423657)

21	07/29/2005	(444457)
22	08/24/2005	(444458)
23	10/03/2005	(475083)
24	11/14/2005	(475082)
25	11/14/2005	(475084)
26	01/26/2006	(475085)
27	01/26/2006	(475086)
28	04/05/2006	(502665)
29	04/05/2006	(502666)
30	07/13/2006	(524989)
31	07/13/2006	(524990)
32	07/13/2006	(524991)
33	07/13/2006	(524992)
34	07/20/2006	(480772)
35	08/07/2006	(524993)
36	09/25/2006	(490002)
37	08/13/2007	(608468)
38	01/10/2008	(623152)
39	01/10/2008	(623153)
40	01/10/2008	(623154)
41	01/10/2008	(623155)
42	01/10/2008	(623156)
43	01/10/2008	(623157)
44	01/10/2008	(623158)
45	01/10/2008	(623159)
46	01/10/2008	(623160)
47	01/10/2008	(623161)
48	01/10/2008	(623162)
49	01/10/2008	(623163)
50	01/10/2008	(623164)
51	04/24/2008	(674537)
52	04/24/2008	(674538)
53	04/24/2008	(674539)
54	04/24/2008	(674540)
55	04/24/2008	(674541)
56	05/16/2008	(692873)
57	06/04/2008	(657184)
58	10/28/2008	(702383)

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

Date: 03/31/2005 (423655)

Self YES Classif Moderate

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

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (524991)

Self YES Classif 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: 07/20/2006 (480772)

Self NO Classif Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)

30 TAC Chapter 317 317.7(i)

Description: Failure to annually test the backflow prevention device on the potable water line to the wastewater treatment plant.

Self NO Classif Minor

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

Self Report?	NO	Classif Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to maintain compliance with the permitted effluent limits.	
Self Report?	NO	Classif Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	Failure to maintain compliance with effluent limitations.	
Self Report?	NO	Classif Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)	
Description:	Failure to provide the chlorine meter standard logs for review.	
Self Report?	NO	Classif Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)	
Description:	Failure to accurately report effluent parameters on the Discharge Monitoring Reports (DMR).	
Self Report?	NO	Classif Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT Monitoring and Reporting Requirements	
Description:	Failure to submit a noncompliance notification as required by the	

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
FOREST GLEN, INC.
RN103015376

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1754-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 Forest Glen, 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 domestic wastewater treatment facility located approximately six miles southeast of the intersection of United States Highway 190 and Farm-to-Market Road 2296 in Walker 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 November 1, 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 Four Thousand Four Hundred Eighty-Five Dollars (\$4,485) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Thousand Five Hundred Eighty-Eight Dollars (\$3,588) of the administrative penalty and Eight Hundred Ninety-Seven Dollars (\$897) 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 the Respondent submitted the September 2007 Discharge Monitoring Report ("DMR") on November 18, 2008.
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 permit effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11844001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on September 8, 2008, and shown in the following table:

Effluent Violation Table			
Permitted Effluent Limits	Effluents Monitored		
	Daily Avg. Ammonia-Nitrogen 3.0 mg/L	Daily Max. Ammonia-Nitrogen 15 mg/L	Daily Average Loading Ammonia-Nitrogen 0.5 lbs/day
August 2007	13.3 mg/L	36.4 mg/L	0.76 lbs/day
January 2008	4.8 mg/L	19.0 mg/L	C
February 2008	5.2 mg/L	C	C
March 2008	4.0 mg/L	C	C
April 2008	24.8 mg/L	35.6 mg/L	C

mg/L = milligrams per Liter	Avg. = Average	Max. = Maximum	C = Compliant
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- Failed to timely submit DMRs at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. 11844001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on September 8, 2008. Specifically, the DMR for the month of September 2007 was due by October 20, 2008 and was submitted on November 18, 2008.

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: Forest Glen, Inc., Docket No. 2008-1754-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

- 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. 11844001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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 Street, Suite H
Houston, Texas 77023-1452

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

John Sordier
For the Executive Director

2/27/2009
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.

John D. Dawidzik
Signature

1/13/2009
Date

JOHN D. DAWIDZIK
Name (Printed or typed)
Authorized Representative of
Forest Glen, Inc.

PRESIDENT
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.