

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0036-MWD-E **TCEQ ID:** RN104474465 **CASE NO.:** 36985

RESPONDENT NAME: Sonterra Development LLC of Jarrell, Texas

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

SITE WHERE VIOLATION(S) OCCURRED: Sonterra Development of Jarrell Texas, located approximately 10,000 feet southeast of the intersection of Interstate Highway 35 and Farm-to-Market Road 487, Williamson County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 11, 2009. No comments were received.

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. Theron Vaughn, President, Sonterra Development LLC of Jarrell, Texas, P.O. Box 856, Jarrell, Texas 76537

Respondent's Attorney: Not represented by counsel on this enforcement matter

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: October 22, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 19, 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, carbonaceous biochemical oxygen demand, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014569001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit the discharge monitoring reports ("DMRs") for the monitoring periods ending October 31, 2007 and November 30, 2007 by the 20th day of the following months [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014569001, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failure to submit effluent monitoring results at intervals specified in the permit [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014569001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$3,440</p> <p>Total Deferred: \$688 <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: \$2,752</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 implemented the following corrective measures at the Facility:</p> <p>a. By January 10, 2009:</p> <p>i) Conducted independent testing and determined a partial cause of the Facility's non-compliance with effluent violations to be an increased inflow of grease; and</p> <p>ii) Identified the potential sources of the excess grease influent and contacted the customers to alert them of the problem and offer possible solutions.</p> <p>b. On January 12, 2009, submitted revised and completed DMRs for the monitoring periods ending October 31, 2007, November 30, 2007, and December 31, 2007.</p> <p>Ordering Provisions:</p> <p>Within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014569001, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0014569001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	5-Dec-2008	Screening	8-Dec-2008	EPA Due	
	PCW	8-Dec-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Sonterra Development LLC of Jarrell, Texas		
Reg. Ent. Ref. No.	RN104474465		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36985	No. of Violations	3
Docket No.	2009-0036-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	\$2,300
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	55.0% Enhancement	Subtotals 2, 3, & 7 \$1,265
Notes	The penalty is enhanced due to 11 self-reported monthly effluent violations.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$10
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$6,347	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$47,325	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,555
OTHER FACTORS AS JUSTICE MAY REQUIRE	-3.2% Adjustment	-115
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes	Recommend reduction in the penalty so that monthly self-reported violations do not overly impact the penalty amount.	
	Final Penalty Amount	\$3,440
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$3,440
DEFERRAL	20.0% Reduction Adjustment	-688
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$2,752

Screening Date 8-Dec-2008

Docket No. 2009-0036-MWD-E

PCW

Respondent Sonterra Development LLC of Jarrell, Texas

Policy Revision 2 (September 2002)

Case ID No. 36985

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104474465

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)	11	55%
	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) 55%

>> **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

The penalty is enhanced due to 11 self-reported monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 8-Dec-2008 **Docket No.** 2009-0036-MWD-E **PCW**

Respondent Sonterra Development LLC of Jarrell, Texas *Policy Revision 2 (September 2002)*

Case ID No. 36985 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN104474465

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014569001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permit effluent limits, as documented during a record review conducted on October 22, 2008 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia-nitrogen 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 protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply Reduction **\$0**

	Reduction	
	Before NOV	NOV to EDPRP/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 \$2,000

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sonterra Development LLC of Jarrell, Texas
Case ID No. 36985
Reg. Ent. Reference No. RN104474465
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	\$47,250	31-Dec-2007	30-Nov-2009	1.92	\$302	\$6,041	\$6,343
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

Estimated costs to increase testing to determine the cause of non-compliance and to expand the aeration basin and install additional blowers at the Facility. Date required is the first date of non-compliance. 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

\$47,250

TOTAL

\$6,343

Screening Date 8-Dec-2008	Docket No. 2009-0036-MWD-E	PCW	
Respondent Sonterra Development LLC of Jarrell, Texas	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36985	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN104474465			
Media [Statute] Water Quality			
Enf. Coordinator Steve Villatoro			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014569001, Monitoring and Reporting Requirements No. 1		
Violation Description	Failed to timely submit discharge monitoring reports ("DMR") for the monitoring periods ending October 31, 2007 and November 31, 2007 by the 20th day of the following month.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
	<input type="text"/>	<input type="text" value="x"/>	Percent <input type="text" value="1%"/>
Matrix Notes	At least 70% of the permit requirement was met.		
Adjustment		<input type="text" value="\$9,900"/>	
<input type="text" value="\$100"/>			
Violation Events			
	Number of Violation Events	<input type="text" value="2"/>	Number of violation days
		<input type="text" value="415"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$200"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
Two single 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 EDRP/Settlement Offer</small>	
	Extraordinary	<input type="text"/>	
	Ordinary	<input type="text"/>	
	N/A	<input type="text" value="x"/> (mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		<input type="text" value="\$200"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$4"/>	Violation Final Penalty Total	<input type="text" value="\$300"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$300"/>	

Economic Benefit Worksheet

Respondent Sonterra Development LLC of Jarrell, Texas
Case ID No. 36985
Reg. Ent. Reference No. RN104474465
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	\$75	20-Nov-2007	12-Jan-2009	1.15	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly prepare and submit the DMRs. Date required is date the first DMR was due. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$75

TOTAL

\$4

Screening Date 8-Dec-2008 **Docket No.** 2009-0036-MWD-E **PCW**
Respondent Sonterra Development LLC of Jarrell, Texas *Policy Revision 2 (September 2002)*
Case ID No. 36985 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN104474465
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro
Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014569001, Monitoring and Reporting Requirements No. 1
Violation Description Failed to submit effluent monitoring results at intervals specified in the permit, as documented during a record review conducted on October 22, 2008. Specifically, the Respondent failed to submit monitoring information for daily average flow, daily maximum flow, and total residual chlorine monthly minimum and maximum on the DMR for the monitoring period ending December 31, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				X	1%

Matrix Notes At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 354 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 achieved compliance on January 12, 2009.

Violation Subtotal \$90

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

Estimated EB Amount \$0 Violation Final Penalty Total \$140

This violation Final Assessed Penalty (adjusted for limits) \$140

Economic Benefit Worksheet

Respondent: Sonterra Development LLC of Jarrell, Texas
Case ID No. 36985
Reg. Ent. Reference No. RN104474465
Media: Water Quality
Violation No.: 3

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See violation number two.

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

\$0

TOTAL

\$0

EFFLUENT VIOLATION TABLE						
Sonterra Development LLC of Jarrell, Texas						
TPDES Permit No. WQ0014569001						
Docket No. 2009-0036-MWD-E						
Months	Total Ammonia Nitrogen Single Grab Conc.	Total Ammonia Nitrogen Daily Avg. Conc.	Total Ammonia Nitrogen Daily Avg. Loading	CBOD Daily Avg. Conc.	CBOD Single Grab Conc.	TSS Daily Avg. Conc.
	Limit = 15 mg/L	Limit = 3 mg/L	Limit = 3.8 lbs/day	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 15 mg/L
12/31/2007	c	7.6	c	13.0	c	30.0
1/31/2008	26.2	13.9	c	c	c	c
2/29/2008	41.5	27.0	8.47	22.0	48.0	21.0
3/31/2008	46.5	30.3	9.44	31.7	36.0	32.5
4/30/2008	48.1	35.8	2.82	37.0	53.0	33.5
5/31/2008	41.9	29.9	6.17	27.0	38.0	32.0

conc. = concentration

lbs/day = pounds per day

c = compliant

CBOD = Carbonaceous Biochemical Oxygen Demand

avg. = average

mg/L = milligrams per liter

TSS = Total Suspended Solids

Compliance History Report

Customer/Respondent/Owner-Operator: CN602753204 Sonterra Development LLC of Jarrell Texas Classification: AVERAGE Rating: 2.36

Regulated Entity: RN104474465 SONTERRA DEVELOPMENT OF JARRELL TEXAS Classification: AVERAGE Site Rating: 1.09

ID Number(s): WASTEWATER PERMIT WQ0014569001
 WASTEWATER EPA ID TX0127221
 WASTEWATER PERMIT TX0127221

Location: APPROXIMATELY 10,000 FT S.E OF THE INTERSECTION OF IH 35 AND FM 487, Williamson County, Texas

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: January 08, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 07, 2004 to January 07, 2009

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

Name: Steve Villatoro Phone: 512-239-4930 *

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	07/10/2006	(529273)
2	09/06/2006	(529274)
3	10/11/2006	(634186)
4	11/06/2006	(634188)
5	12/13/2006	(634189)
6	01/11/2007	(634190)
7	02/16/2007	(634178)
8	03/14/2007	(634179)
9	04/11/2007	(634180)
10	05/07/2007	(634181)
11	06/05/2007	(634182)
12	07/13/2007	(634183)
13	08/22/2007	(634184)
14	09/10/2007	(634185)
15	10/08/2007	(634187)
16	02/12/2008	(678017)
17	02/20/2008	(678016)
18	05/30/2008	(696856)
19	05/30/2008	(696857)
20	05/30/2008	(696858)
21	05/30/2008	(696859)
22	07/22/2008	(718586)
23	08/20/2008	(718587)
24	09/19/2008	(718588)
25	12/19/2008	(706229)

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

Date: 08/31/2006 (529274) CN602753204
 Self YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2006 (634188) CN602753204

Self	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 (678017)	CN602753204	
Self	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:	01/31/2008 (678016)	CN602753204	
Self	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 (696856)	CN602753204	
Self	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 (696857)	CN602753204	
Self	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 (696858)	CN602753204	
Self	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 (696859)	CN602753204	
Self	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 (718586)	CN602753204	
Self	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:	07/31/2008 (718587)	CN602753204	
Self	YES	Classification	Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)			
30 TAC Chapter 305, SubChapter F 305.125(1)			
Description: Failure to meet the limit for one or more permit parameter			
Date:	08/31/2008 (718588)	CN602753204	
Self	YES	Classification	Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)			
30 TAC Chapter 305, SubChapter F 305.125(1)			
Description: Failure to meet the limit for one or more permit parameter			
Date: 08/31/2008 (718588)			
CN602753204			
Description: Failure to meet the limit for one or more permit parameter			

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
SONTERRA DEVELOPMENT LLC OF
JARRELL, TEXAS
RN104474465

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0036-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 Sonterra Development LLC of Jarrell, Texas ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 10,000 feet southeast of the intersection of Interstate Highway 35 and Farm-to-Market Road 487 in Williamson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 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 Four Hundred Forty Dollars (\$3,440) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Seven Hundred Fifty-Two Dollars (\$2,752) of the administrative penalty and Six Hundred Eighty-Eight Dollars (\$688) 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 implemented the following corrective measures at the Facility:
 - a. By January 10, 2009:
 - i. Conducted independent testing and determined a partial cause of the Facility's non-compliance with effluent violations to be an increased inflow of grease; and
 - ii. Identified the potential sources of the excess grease influent and contacted the customers to alert them of the problem and offer possible solutions.
 - b. On January 12, 2009, submitted revised and completed discharge monitoring reports ("DMR") for the monitoring periods ending October 31, 2007, November 30, 2007, and December 31, 2007.
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 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. WQ0014569001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 22, 2008 and shown in the following table:

EFFLUENT VIOLATION TABLE						
Months	Total Ammonia-Nitrogen Single Grab Conc	Total Ammonia-Nitrogen Daily Avg Conc	Total Ammonia-Nitrogen Daily Avg Loading	CBOD Daily Avg Conc	CBOD Single Grab Conc	TSS Daily Avg Conc
	Limit = 15 mg/L	Limit = 3 mg/L	Limit = 3.8 lbs/day	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 15 mg/L
12/31/2007	c	7.6	c	13.0	c	30.0
1/31/2008	26.2	13.9	c	c	c	c
2/29/2008	41.5	27.0	8.47	22.0	48.0	21.0
3/31/2008	46.5	30.3	9.44	31.7	36.0	32.5
4/30/2008	48.1	35.8	2.82	37.0	53.0	33.5
5/31/2008	41.9	29.9	6.17	27.0	38.0	32.0

conc. = concentration

avg. = average

lbs/day = pounds per day

mg/L = milligrams per liter

C = compliant

TSS = Total Suspended Solids

CBOD = Carbonaceous Biochemical Oxygen Demand

- Failed to timely submit the DMRs for the monitoring periods ending October 31, 2007 and November 30, 2007 by the 20th day of the following months, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014569001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on October 22, 2008.
- Failed to submit effluent monitoring results at intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014569001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on October 22, 2008. Specifically, the Respondent failed to timely submit monitoring information for daily average flow, daily maximum flow, and total residual chlorine monthly minimum and maximum for the monitoring period ending December 31, 2007.

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: Sonterra Development LLC of Jarrell, Texas, Docket No. 2009-0036-MWD-E" to:

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

2. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014569001, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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:

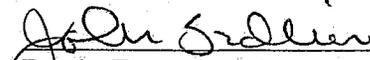
Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/13/2009

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

2.16.09

Date

Theron Vaughn

Name (Printed or typed)
Authorized Representative of
Sonterra Development LLC of Jarrell, Texas

Developer

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.