

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0142-IWD-E **TCEQ ID:** RN102182086 **CASE NO.:** 37085

RESPONDENT NAME: Texas A&M University

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: Nuclear Science Center, approximately one mile southwest of the intersection of Farm-to-Market Road 2818 and George Bush Avenue (Jersey Street) and south of the Easterwood Airport, College Station, Brazos County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 May 11, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Dr. W. D. Reece, Director, Texas A&M University, 1095 Nuclear Science Road, College Station, Texas 77843-0001 Mr. Charley B. Clark, Associate Vice President, Texas A&M University, 1095 Nuclear Science Road, College Station, Texas 77843-0001 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: November 21, 2008</p> <p>Date of NOV/NOE Relating to this Case: January 14, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limitations. Specifically, the daily average permitted effluent limit for total copper at Outfall 101 is 0.064 milligrams/liter ("mg/l"). However, the reported values for December 2007 and May 2008 were 0.099 mg/l and 0.079 mg/l, respectively [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004003000, Outfall No. 101, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$4,340</p> <p>Total Deferred: \$868 <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: \$3,472</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 after October 7, 2008, the Respondent piped all effluent to the Texas A&M University publicly owned treatment works and no longer discharges any effluent from the Nuclear Science Center outfalls. TPDES Permit No. WQ0004003000 expired at midnight on December 1, 2008.</p>

Additional ID No(s): TPDES Permit No. WQ0004003000



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES Assigned 20-Jan-2009
 PCW 29-Jan-2009 Screening 28-Jan-2009 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Texas A&M University
 Reg. Ent. Ref. No. RN102182086
 Facility/Site Region 9-Waco Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 37085 No. of Violations 1
 Docket No. 2009-0142-IWD-E Order Type 1660
 Media Program(s) Water Quality Government/Non-Profit Yes
 Multi-Media Enf. Coordinator Thomas Jecha
 EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 142.0% Enhancement Subtotals 2, 3, & 7 \$2,840

Notes Enhancement for 24 self-reported monthly effluent violations, one NOV with dissimilar violations, and one agreed order with a denial of liability issued to this Facility within the past five years.

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 \$500

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$7,699
 Approx. Cost of Compliance \$200,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$4,340

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$4,340

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$4,340

DEFERRAL 20.0% Reduction Adjustment -\$868

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 \$3,472

Screening Date 28-Jan-2009

Docket No. 2009-0142-IWD-E

PCW

Respondent Texas A&M University

Policy Revision 2 (September 2002)

Case ID No. 37085

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN102182086

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	24	120%
	Other written NOV's	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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) 142%

>> 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

Enhancement for 24 self-reported monthly effluent violations, one NOV with dissimilar violations, and one agreed order with a denial of liability issued to this Facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 142%

Screening Date 28-Jan-2009	Docket No. 2009-0142-IWD-E	PCW	
Respondent Texas A&M University	Policy Revision 2 (September 2002) PCW Revision October 30, 2008		
Case ID No. 37085			
Reg. Ent. Reference No. RN102182086			
Media [Statute] Water Quality			
Enf. Coordinator Thomas Jecha			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004003000, Outfall No. 101, Effluent Limitations and Monitoring Requirements No. 1.		
Violation Description	Failed to comply with permitted effluent limitations. Specifically, the daily average permitted effluent limit for total copper at the Nuclear Science Center Outfall 101 is 0.064 milligrams/liter ("mg/l"). However, the reported values for December 2007 and May 2008 were 0.099 mg/l and 0.079 mg/l, respectively.		
Base Penalty		<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="10%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="0%"/>
Matrix Notes	A simplified model was utilized to evaluate the values of copper and flow to determine whether the discharged amounts of pollutant (copper) exceeded levels protective of human health or the environment. The amounts discharged were insignificant and did not exceed levels that are protective of human health or the environment.		
Adjustment			<input type="text" value="\$9,000"/>
			<input type="text" value="\$1,000"/>
Violation Events			
Number of Violation Events		<input type="text" value="2"/>	<input type="text" value="62"/>
		Number of violation days	
mark only one with an x	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
Two quarterly events are recommended.			
Good Faith Efforts to Comply			<input type="text" value="\$500"/>
25.0% Reduction			
Before NOV NOV to EDRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)	
Notes	Became compliant by October 7, 2008.		
Violation Subtotal			<input type="text" value="\$1,500"/>
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$7,699"/>	Violation Final Penalty Total	<input type="text" value="\$4,340"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$4,340"/>

Economic Benefit Worksheet

Respondent Texas A&M University
Case ID No. 37085
Reg. Ent. Reference No. RN102182086
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$200,000	31-Dec-2007	7-Oct-2008	0.77	\$7,699	n/a	\$7,699

Notes for DELAYED costs

Respondent's estimated cost to pipe the Nuclear Science Center effluent to the wastewater treatment plant. The date required is the date of the first effluent violation and the final date is the date the Nuclear Science Center ceased using the permitted outfalls.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$200,000

TOTAL

\$7,699

Compliance History Report

Customer/Respondent/Owner-Operator: CN600307623 Texas A&M University Classification: AVERAGE Rating: 2.41
Regulated Entity: RN102182086 NUCLEAR SCIENCE CENTER Classification: AVERAGE Site Rating: 2.05
ID Number(s): WASTEWATER PERMIT WQ0004003000
WASTEWATER PERMIT TPDES0116912
WASTEWATER PERMIT TX0116912
Location: approx 1 mi SW of intersect FM 2818 & G Bush Ave (Jersey St) & S of Easterwood Airport, College Station
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: January 27, 2009
Agency Decision Requiring Compliance Enforcement
Compliance Period: January 30, 2004 to January 30, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Thomas Jecha Phone: 239 - 2576

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
- 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.
- Effective Date: 11/24/2005 ADMINORDER 2005-0578-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
- 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 | 02/26/2004 | (325893) |
| 2 | 03/30/2004 | (325895) |
| 3 | 04/26/2004 | (325896) |
| 4 | 05/24/2004 | (366178) |
| 5 | 06/25/2004 | (366179) |
| 6 | 07/28/2004 | (366180) |
| 7 | 08/30/2004 | (366181) |
| 8 | 09/30/2004 | (389599) |
| 9 | 10/25/2004 | (366182) |
| 10 | 11/23/2004 | (389600) |
| 11 | 01/03/2005 | (389601) |
| 12 | 01/24/2005 | (389602) |

13	02/28/2005	(427137)
14	03/02/2005	(372051)
15	03/28/2005	(427138)
16	04/20/2005	(427139)
17	05/06/2005	(373719)
18	05/31/2005	(427140)
19	06/24/2005	(427141)
20	07/20/2005	(447254)
21	08/22/2005	(447255)
22	09/20/2005	(447256)
23	10/25/2005	(491708)
24	12/20/2005	(491709)
25	01/25/2006	(491710)
26	02/22/2006	(491706)
27	03/27/2006	(491707)
28	04/21/2006	(505899)
29	05/24/2006	(505900)
30	06/21/2006	(505901)
31	07/20/2006	(528145)
32	08/28/2006	(528146)
33	09/25/2006	(528147)
34	10/20/2006	(551652)
35	11/27/2006	(551654)
36	01/04/2007	(551653)
37	01/26/2007	(588754)
38	01/26/2007	(588755)
39	02/26/2007	(588749)
40	03/26/2007	(588750)
41	04/23/2007	(588751)
42	05/29/2007	(588752)
43	06/25/2007	(588753)
44	07/23/2007	(605580)
45	08/24/2007	(605581)
46	09/26/2007	(605582)
47	10/26/2007	(630458)
48	11/26/2007	(630459)
49	12/19/2007	(630460)
50	01/28/2008	(677033)
51	02/22/2008	(677031)
52	04/18/2008	(677032)
53	04/22/2008	(695660)
54	05/19/2008	(695661)
55	06/19/2008	(695662)
56	07/21/2008	(695663)
57	08/20/2008	(717208)
58	09/22/2008	(717209)
59	10/20/2008	(717210)
60	01/14/2009	(708983)

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

Date: 03/31/2004 (325896)

Self Report? YES

Classification Moderate

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

TWC Chapter 26 26.121(a)

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

Date:	04/30/2004	(366178)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	05/31/2004	(366179)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	05/30/2004	(366180)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	07/31/2004	(366181)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	08/31/2004	(389599)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	09/30/2004	(366182)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	10/31/2004	(389600)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	11/30/2004	(389601)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	12/31/2004	(389602)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	01/31/2005	(427137)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	02/28/2005	(427138)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	03/31/2005	(427139)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				

Date:	04/28/2005	(373719)	CN600307623		
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)				
	Other Requirements (4); pg. 12 PERMIT				
Description:	Failure to implement proper monitoring/testing requirements for effluent analysis.				
Date:	04/30/2005	(427140)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	05/31/2005	(427141)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	06/30/2005	(447254)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	08/31/2005	(447256)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	09/30/2005	(491708)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	11/30/2005	(491709)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	01/31/2006	(491706)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	02/28/2006	(491707)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	07/31/2006	(528146)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	12/31/2007	(677033)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	05/31/2008	(695662)	CN600307623		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)				

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS A&M UNIVERSITY
RN102182086

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0142-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas A&M University ("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 plant for its Nuclear Science Center approximately one mile southwest of the intersection of Farm-to-Market Road 2818 and George Bush Avenue (Jersey Street) and south of the Easterwood Airport in College Station, Brazos 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 January 19, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Three Hundred Forty Dollars (\$4,340) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Four Hundred Seventy-Two Dollars (\$3,472) of the administrative penalty and Eight Hundred Sixty-Eight Dollars (\$868) 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 after October 7, 2008 the Respondent piped all effluent to the Texas A&M University publicly owned treatment works and no longer discharges any effluent from the Nuclear Science Center outfalls. Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004003000 expired at midnight on December 1, 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 failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004003000, Outfall No. 101, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on November 21, 2008. Specifically, the daily average permitted effluent limit for total copper at Outfall 101 is 0.064 milligrams/liter ("mg/l"). However, the reported values for December 2007 and May 2008 were 0.099 mg/l and 0.079 mg/l, respectively.

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: Texas A&M University, Docket No. 2009-0142-IWD-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. 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.
3. 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.
4. 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.
5. 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 S. [Signature]
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.

Charley B. Clark
Signature

2/26/2009
Date

CHARLEY B. CLARK
Name (Printed or typed)
Authorized Representative of
Texas A&M University

ASSOC. VICE 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.