

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER****DOCKET NO.:** 2008-1885-MWD-E **TCEQ ID:** RN102079126 **CASE NO.:** 36900**RESPONDENT NAME:** Bentwood Estates, Inc.

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Bentwood Estates, 2719 Third Street, approximately 4,000 feet northeast of the intersection of Farm-to-Market Road 1960 and Farm-to-Market Road 2100, northeast of the incorporated township of Huffman, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 4, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Katusuke Asanuma, Owner, Bentwood Estates, Inc., P.O. Box 576, Huffman, Texas 77336  Mr. Edward B. MacHann, Owner, Bentwood Estates, Inc., P.O. Box 576, Huffman, Texas 77336  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 13, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 18, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to conduct the Toxicity Characteristic Leaching Procedure ("TCLP") sludge test at the required frequency. Specifically, the permit requires that the sludge be tested at least once during the term of the permit; however, sludge was not tested for the permit that was effective during the period of January 22, 2004 through August 1, 2008 [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12612001, Sludge Provisions, Section I.B.1].</p> <p>2) Failure to submit the annual sludge report for the monitoring periods ending August 31, 2006 and August 31, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 12612001, Sludge Provisions].</p>	<p><b>Total Assessed:</b> \$3,318</p> <p><b>Total Deferred:</b> \$663  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,655</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent conducted the TCLP sludge test on December 3, 2008 and submitted the results on January 15, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self reporting requirements are accomplished, including the timely submittal of annual sludge reports;</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit the annual sludge reports for the monitoring periods ending August 31, 2006 and August 31, 2007; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. and b. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): 12612001



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-Nov-2008	Screening	8-Dec-2008	EPA Due	
	PCW	16-Dec-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Bentwood Estates, Inc.
Reg. Ent. Ref. No.	RN102079126
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36900	No. of Violations	2
Docket No.	2008-1885-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
		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 \$2,500

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 20.0% Enhancement Subtotals 2, 3, & 7 \$500

Notes: Enhancement recommended for having two NOVs for the same or similar violations and five NOVs for non-similar violations within the last 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 \$0

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

Total EB Amounts \$390  
Approx. Cost of Compliance \$750  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$3,000

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 10.6% Adjustment \$318

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.

**Final Penalty Amount** \$3,318

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$3,318

**DEFERRAL** 20.0% Reduction Adjustment -\$663

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$2,655

Screening Date 8-Dec-2008

Docket No. 2008-1885-MWD-E

PCW

Respondent Bentwood Estates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36900

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102079126

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

## Compliance History Worksheet

## &gt;&gt; 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 ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement recommended for having two NOVs for the same or similar violations and five NOVs for non-similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 20%

<b>Screening Date</b> 8-Dec-2008	<b>Docket No.</b> 2008-1885-MWD-E	<b>PCW</b>														
<b>Respondent</b> Bentwood Estates, Inc.		<small>Policy Revision 2 (September 2002)</small>														
<b>Case ID No.</b> 36900		<small>PCW Revision October 30, 2008</small>														
<b>Reg. Ent. Reference No.</b> RN102079126																
<b>Media [Statute]</b> Water Quality																
<b>Enf. Coordinator</b> Samuel Short																
<b>Violation Number</b> <input type="text" value="1"/>																
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12612001, Sludge Provisions, Section I.B.1															
<b>Violation Description</b>	Failed to conduct the Toxicity Characteristic Leaching Procedure ("TCLP") sludge test at the required frequency. Specifically, the permit requires that the sludge be tested at least once during the term of the permit, however, sludge was not tested for the permit that was effective during the period of January 22, 2004 through August 1, 2008.															
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
OR	<b>Harm</b>															
	Release      Major      Moderate      Minor															
	Actual	<input type="text"/>														
	Potential	<input type="text" value="x"/>														
	<b>Percent</b>	<input type="text" value="5%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																
	Falsification      Major      Moderate      Minor															
	<input type="text"/>	<input type="text" value="0%"/>														
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.															
	<b>Adjustment</b>	<input type="text" value="\$9,500"/>														
		<input type="text" value="\$500"/>														
<b>Violation Events</b>																
	<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="130"/> <b>Number of violation days</b>														
<small>mark only one with an x</small>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 50px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">weekly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black;"><input type="text" value="x"/></td></tr> </table>	daily	<input type="text"/>	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"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>
daily	<input type="text"/>															
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"/>															
	One single event is recommended.															
<b>Good Faith Efforts to Comply</b>																
	<b>0.0% Reduction</b>	<input type="text" value="\$0"/>														
	<small>Before NOV      NOV to EDPRP/Settlement Offer</small>															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input type="text"/>	<input type="text"/>														
N/A	<input type="text" value="x"/>	<small>(mark with x)</small>														
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.															
	<b>Violation Subtotal</b>	<input type="text" value="\$500"/>														
<b>Economic Benefit (EB) for this violation</b>																
	<b>Estimated EB Amount</b>	<input type="text" value="\$318"/>														
<b>Statutory Limit Test</b>																
	<b>Violation Final Penalty Total</b>	<input type="text" value="\$664"/>														
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$664"/>															

### Economic Benefit Worksheet

**Respondent** Bentwood Estates, Inc.  
**Case ID No.** 36900  
**Reg. Ent. Reference No.** RN102079126  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
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

**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]	\$250	22-Jan-2004	1-Aug-2008	5.45	\$68	\$250	\$318
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost to conduct the TCLP sludge test. Date required is the permit issuance date and the final date is the date in which the permit expired.

Approx. Cost of Compliance

TOTAL

<b>Screening Date</b> 8-Dec-2008	<b>Docket No.</b> 2008-1885-MWD-E	<b>PCW</b>		
<b>Respondent</b> Bentwood Estates, Inc.		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36900		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102079126				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Samuel Short				
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. 12612001, Sludge Provisions			
<b>Violation Description</b>	Failed to submit the annual sludge report for the monitoring periods ending August 31, 2006 and August 31, 2007, as documented during an investigation conducted on August 13, 2008.			
	<b>Base Penalty</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	0%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	10%	
<b>Matrix Notes</b>	100% of the permit requirement was not met.			
	<b>Adjustment</b>	\$9,000		
			\$1,000	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	2	<b>Number of violation days</b>	
		830		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> \$2,000	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
	Two single events are recommended.			
<b>Good Faith Efforts to Comply</b>				
	<b>0.0%</b>	<b>Reduction</b>	<b>\$0</b>	
	Before NOV	NOV to EDRP/ Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	x	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
	<b>Violation Subtotal</b>	\$2,000		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$72	<b>Violation Final Penalty Total</b>	\$2,654	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,654	

## Economic Benefit Worksheet

**Respondent** Bentwood Estates, Inc.  
**Case ID No.** 36900  
**Reg. Ent. Reference No.** RN102079126  
**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
<b>Delayed Costs</b>							
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	\$500	1-Sep-2006	17-Jul-2009	2.88	\$72	n/a	\$72
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to submit the annual sludge reports. The date required is the date the first report was due. The 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 \$500

TOTAL \$72

## Compliance History Report

Customer/Respondent/Owner-Operator:	CN601122070 Bentwood Estates, Inc.	Classification: AVERAGE	Rating: 0.45
Regulated Entity:	RN102079126 BENTWOOD ESTATES	Classification: AVERAGE	Site Rating: 0.45
ID Number(s):	WASTEWATER PERMIT		WQ0012612001
	WASTEWATER PERMIT		TPDES0091693
	WASTEWATER PERMIT		TX0091693
	WASTEWATER LICENSING LICENSE		WQ0012612001
Location:	LOCATED AT 2719 THIRD STREET, APPROXIMATELY 4,000 FEET NORTHEAST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 1960 AND FARM-TO-MARKET ROAD 2100, NORTHEAST OF THE INCORPORATED TOWNSHIP OF HUFFMAN, HARRIS COUNTY TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	December 04, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 04, 2003 to December 04, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Samuel Short</u>	Phone:	<u>(512) 239-5363</u>

### 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.  
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  | 12/12/2003 | (318751) |
| 2  | 12/12/2003 | (318752) |
| 3  | 12/12/2003 | (318753) |
| 4  | 12/12/2003 | (318754) |
| 5  | 12/12/2003 | (318755) |
| 6  | 12/12/2003 | (318756) |
| 7  | 04/22/2004 | (362009) |
| 8  | 04/22/2004 | (362010) |
| 9  | 04/22/2004 | (362011) |
| 10 | 04/22/2004 | (362012) |
| 11 | 06/07/2004 | (271798) |
| 12 | 09/07/2004 | (288053) |
| 13 | 11/15/2004 | (387474) |
| 14 | 11/15/2004 | (387475) |
| 15 | 11/15/2004 | (387476) |
| 16 | 11/15/2004 | (387477) |
| 17 | 11/15/2004 | (387479) |
| 18 | 11/29/2004 | (387478) |
| 19 | 11/29/2004 | (387480) |
| 20 | 08/05/2005 | (445799) |
| 21 | 08/05/2005 | (445800) |

22	08/05/2005	(445801)
23	08/05/2005	(445802)
24	08/05/2005	(445803)
25	08/05/2005	(445804)
26	08/05/2005	(445805)
27	04/10/2006	(504176)
28	04/10/2006	(504177)
29	04/10/2006	(504178)
30	04/10/2006	(504179)
31	04/10/2006	(504180)
32	04/10/2006	(504181)
33	04/10/2006	(504182)
34	04/10/2006	(504183)
35	09/21/2006	(526552)
36	09/21/2006	(526553)
37	09/21/2006	(526554)
38	09/21/2006	(526555)
39	11/17/2006	(514813)
40	01/22/2007	(625780)
41	01/22/2007	(625781)
42	03/22/2007	(625782)
43	03/22/2007	(625783)
44	03/22/2007	(625784)
45	08/03/2007	(625774)
46	08/03/2007	(625775)
47	08/03/2007	(625776)
48	08/03/2007	(625777)
49	09/18/2007	(625778)
50	09/18/2007	(625779)
51	11/15/2007	(598996)
52	01/28/2008	(675752)
53	01/28/2008	(675753)
54	02/21/2008	(675754)
55	02/21/2008	(675755)
56	02/21/2008	(675756)
57	02/21/2008	(675757)
58	06/06/2008	(694100)
59	06/06/2008	(694101)
60	06/06/2008	(694102)
61	07/22/2008	(694103)
62	07/22/2008	(694104)
63	07/22/2008	(694105)
64	11/17/2008	(704235)

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

Date:	12/31/2003	(362012)	CN601122070	
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	(387474)	CN601122070	
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:	06/07/2004	(271798)	CN601122070	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.7(b)			
Description:	Failure to provide a cover for the on-site lift station or railings around the circumference of the lift station.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)			
Description:	Failure to test the RPZ backflow prevention device annually.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.4			

Description: Failure to conduct carbonaceous biochemical oxygen demand (CBOD) and ammonia nitrogen monitoring as required by the TPDES permits issued January 11, 2001 and January 22, 2004.

Date: 10/30/2004 (387479) CN601122070  
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: 11/16/2006 (514813) CN601122070

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(d)

Description: Failure to properly maintain the chlorine contact basin and clarifier.

Self Report? NO Classification: Moderate

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

Description: Failure to conduct the Toxicity Characteristic Leaching Procedure (TCLP).  
Date: 01/31/2007 (625774) CN601122070

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: 11/15/2007 (598996) CN601122070

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(d)

Description: Failure to properly maintain the chlorine contact basin and clarifier.

Self Report? NO Classification: Moderate

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

Description: Failure to conduct the Toxicity Characteristic Leaching Procedure (TCLP).

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  
BENTWOOD ESTATES, INC.  
RN102079126

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1885-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 Bentwood Estates, 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 wastewater treatment facility located at 2719 Third Street, approximately 4,000 feet northeast of the intersection of Farm-to-Market Road 1960 and Farm-to-Market Road 2100, northeast of the incorporated township of Huffman, Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 23, 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 Three Hundred Eighteen Dollars (\$3,318) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Six Hundred Fifty-Five Dollars (\$2,655) of the administrative penalty and Six Hundred Sixty-Three Dollars (\$663) 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 conducted the Toxicity Characteristic Leaching Procedure ("TCLP") sludge test on December 3, 2008 and submitted the results on January 15, 2009.
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 conduct the TCLP sludge test at the required frequency, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12612001, Sludge Provisions, Section I.B.1, as documented during an investigation conducted on August 13, 2008. Specifically, the permit requires that the sludge be tested at least once during the term of the permit, however, sludge was not tested for the permit that was effective during the period of January 22, 2004 through August 1, 2008.
2. Failed to submit the annual sludge report for the monitoring periods ending August 31, 2006 and August 31, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 12612001, Sludge Provisions, as documented during an investigation conducted on August 13, 2008.

### 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: Bentwood Estates, Inc., Docket No. 2008-1885-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self reporting requirements are accomplished, including the timely submittal of annual sludge reports, in accordance with TPDES Permit No. 12612001, Monitoring and Reporting Requirements No. 1;
  - b. Within 60 days after the effective date of this Agreed Order, submit the annual sludge reports for the monitoring periods ending August 31, 2006 and August 31, 2007 to:

Compliance Monitoring Section  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 2.a. and 2.b. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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 Avenue, Suite H  
Houston, Texas 77023-1486

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.

Bentwood Estates, Inc.

DOCKET NO. 2008-1885-MWD-E

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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

4/2/2009  
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

2609  
Date

Edward B MacHann  
Name (Printed or typed)  
Authorized Representative of  
Bentwood Estates, Inc.

Owner  
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.