

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-1086-MWD-E TCEQ ID: RN101516672 CASE NO.: 36171  
RESPONDENT NAME: JAMES F. LUNSFORD DBA FAIRVIEW JOINT VENTURE**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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
<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> USED OIL	<input type="checkbox"/> WATER RIGHTS

**SITE WHERE VIOLATION(S) OCCURRED:** East of U.S. Route 75, one mile south of the intersection of State Route 121 and U.S. Route 75, Collin County

**TYPE OF OPERATION:** mobile home park 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.

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on April 20, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. J. Craig Fleming, Air Enforcement Section, MC 219, (512) 239-5806

**TCEQ Regional Contact:** Mr. Sid Slocum, Waste Section Manager, MC R-4, (817) 588-5901

**Respondent:** Mr. James F. Lunsford, Fairview Joint Venture, 2215 Cedar Springs Road, Apt. 1605, Dallas, Texas 75201

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 24, 2008</p> <p><b>Date of NOE Relating to this Case:</b> June 16, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed on January 5, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>MWD:</b></p> <ol style="list-style-type: none"> <li>Failed to operate and maintain the Facility to prevent the discharge and accumulation of sludge in the receiving stream [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0013806001, Permit Condition 2.d].</li> <li>Failed to submit non-compliance notifications as required [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0013806001, Monitoring and Reporting Requirement No. 7c].</li> <li>Failed to retain facility records [30 TEX. ADMIN. CODE §§ 319.7(a), 305.125(1), and 305.125(11)(B), and TPDES Permit No. WQ0013806001, Monitoring and Reporting Requirement No. 3b].</li> <li>Failed to maintain the 20 minute detention time in the chlorine contact basin [30 TEX. ADMIN. CODE §§ 217.281(a)(1) and 305.125(1) and (11), and TPDES Permit No. WQ0013806001, Effluent Limitations and Monitoring Requirements No. 2].</li> </ol>	<p><b>Total Assessed:</b> \$38,850</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$38,850</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 10 days:             <ol style="list-style-type: none"> <li>Implement a procedure whereby the appropriate records are appropriately maintained;</li> <li>Install a reduced pressure backflow prevention assembly device and test it annually; and</li> <li>Provide suitable containers with lids to contain the screenings.</li> </ol> </li> <li>Within 30 days:             <ol style="list-style-type: none"> <li>Develop and implement reporting procedures for noncompliance reporting for effluent violations that deviate by more than 40% from the permitted effluent limitations, and for unauthorized discharges;</li> <li>Develop and train personnel on the procedures to properly chlorinate the discharge from the Facility;</li> <li>Provide a method of auxiliary emergency power for the Facility, an equalization basin, or a telemetry alarm system;</li> <li>Submit the annual sludge reports for the monitoring periods ending July 31, for the years 2004, 2005, 2006, and 2007; and</li> <li>Train staff to accurately calculate instantaneous flow measurements.</li> </ol> </li> <li>Within 45 days:             <ol style="list-style-type: none"> <li>Submit documentation of the corrective actions taken to clean the receiving ditch and to prevent the recurrence of any discharges of solids to the receiving ditch; and</li> <li>Submit the report to the Executive Director that addresses the feasibility of connecting the system served by the permitted facility.</li> </ol> </li> </ol>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to comply with permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0013806001, Effluent Limitations and Monitoring Requirements No. 6].</p> <p>6. Failed to provide a form of auxiliary power at the facility [30 TEX. ADMIN. CODE § 317.4(a)(5)(currently §§217.37(a), 217.128, and 217.161(d)) and TPDES Permit No. WQ0013806001, Operational Requirements No. 4].</p> <p>7. Failed to submit the annual sludge report by September 1 of each year as required by the permit [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013806001, Sludge Provisions].</p> <p>8. Failed to properly install the reduced pressure backflow prevention assembly device ("RPBA") at the plant's main potable water service line and to test the RPBA annually [30 TEX. ADMIN. CODE §§ 317.4(a)(8) and 317.7(i),(currently §§ 217.330(a) and (b)].</p> <p>9. Failed to properly dispose of screenings [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(4)(currently § 217.123(b), and TPDES Permit No. WQ0013806001, Operational Requirements No. 1].</p> <p>10. Failed to properly operate and maintain the treatment system [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0013806001, Operational Requirements No. 1].</p> <p>11. Failed to accurately calculate instantaneous flow measurements [30 TEX. ADMIN. CODE § 319.11(d) and TPDES Permit No. WQ0013806001 Monitoring and Reporting No. 2].</p> <p>12. Failed to submit a report that addresses the feasibility of connecting the system served by the permitted facility within six months of issuance of the permit [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013806001, Other Requirements No. 8].</p>		<p>4. Within 60 days:</p> <ul style="list-style-type: none"> <li>a. Complete repairs or replacement of the defective components of the Facility's systems; Operational Requirement No. 1; and</li> <li>b. Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013806001.</li> </ul> <p>5. Within 75 days submit written certification to demonstrate compliance with Ordering Provision Nos. 1. through 4.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b>	23-Jun-2008	<b>Screening</b>	9-Jul-2008	<b>EPA Due</b>	
	<b>PCW</b>		9-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	James F. Lunsford dba Fairview Joint Venture		
<b>Reg. Ent. Ref. No.</b>	RN101516672		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36171	<b>No. of Violations</b>	12
<b>Docket No.</b>	2008-1086-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	J. Craig Fleming
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$21,000				
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>							
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.							
<b>Compliance History</b>	85.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$17,850				
<b>Notes</b>	An enhancement is recommended because the Respondent has received 15 same/similar self-reported effluent NOVs and two same/similar non-effluent NOVs within the past five years.						
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0				
<b>Notes</b>	The Respondent does not meet the culpability criteria.						
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$0				
<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b>	\$0				
<table border="1"> <tr> <td>Total EB Amounts</td> <td>\$896</td> </tr> <tr> <td>Approx. Cost of Compliance</td> <td>\$11,875</td> </tr> </table>		Total EB Amounts	\$896	Approx. Cost of Compliance	\$11,875	*Capped at the Total EB \$ Amount	
Total EB Amounts	\$896						
Approx. Cost of Compliance	\$11,875						
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$38,850				
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		0.0% <b>Adjustment</b>	\$0				
Reduces or enhances the Final Subtotal by the indicated percentage.							
<b>Notes</b>							
<b>Final Penalty Amount</b>			\$38,850				
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$38,850				
<b>DEFERRAL</b>		0.0% Reduction <b>Adjustment</b>	\$0				
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)							
<b>Notes</b>	Deferral not offered for non-expedited settlement.						
<b>PAYABLE PENALTY</b>			\$38,850				

Screening Date 9-Jul-2008

Docket No. 2008-1086-MWD-E

PCW

Respondent James F. Lunsford dba Fairview Joint Venture

Policy Revision 2 (September 2002)

Case ID No. 36171

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101516672

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

**Compliance History Worksheet**

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	17	85%
	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)** 85%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

Compliance History Notes

An enhancement is recommended because the Respondent has received 15 same/similar self-reported effluent NOVs and two same/similar non-effluent NOVs within the past five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 85%

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **RCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture *Policy Revision 2 (September 2002)*  
**Case ID No.** 36171 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101516672  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming  
**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0013806001, Permit Condition 2.d  
**Violation Description** Failed to operate and maintain the Facility to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, plant upsets were indicated by the accumulated solids and paper trash indicative of wastewater treatment from the discharge pipe to the receiving stream.  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

**Adjustment** \$9,000

**Violation Events** \$1,000

**Number of Violation Events** 1 **Number of violation days** 76  
**Violation Base Penalty** \$1,000  
 mark only one with an x  

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

One quarterly event is recommended from the date of the investigation on April 24, 2008 to the date of screening on July 9, 2008.

**Good Faith Efforts to Comply** 0.0% Reduction **\$0**  
 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** \$1,000

**Economic Benefit (EB) for this violation** **Statutory Limit Test**  
**Estimated EB Amount** \$22 **Violation Final Penalty Total** \$1,850  
**This violation Final Assessed Penalty (adjusted for limits)** \$1,850

## Economic Benefit Worksheet

**Respondent:** James F. Lunsford dba Fairview Joint Venture  
**Case ID/No:** 36171  
**Reg. Ent. Reference No:** RN101516672  
**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
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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)	\$500	24-Apr-2008	15-Mar-2009	0.89	\$22	N/A	\$22

Notes for DELAYED costs

Approximate cost for the corrective actions to clean the receiving ditch and to prevent the recurrence of any discharges of solids to the receiving stream. The Date Required was the day the violation was first observed. The Final Date is the expected date of compliance.

### 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

N/A

Approx. Cost of Compliance

\$500

TOTAL

\$22

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **PCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture *Policy Revision 2 (September 2002)*  
**Case ID No.** 36171 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101516672

**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0013806001, Monitoring and Reporting Requirement No. 7c

**Violation Description** Failed to submit noncompliance notifications as required. Specifically, the biochemical oxygen demand values reported for the month of November 2007 exceeded the permitted limit by more than 40% and was not reported to the regional office and Enforcement Division.

**Base Penalty**

**>> Environmental Property and Human Health Matrix**

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

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**  **Reduction**  **Statutory Limit Test**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

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

**Violation Subtotal**

**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:** James F. Lunsford dba Fairview Joint Venture  
**Case ID/No:** 36171  
**Reg. Ent. Reference No:** RN101516672  
**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
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**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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Feb-2005	1-Mar-2009	4.08	\$20	\$0	\$20

Notes for DELAYED costs

The approximate cost to train personnel on how to use the reporting system to ensure that all excursion events are reported timely and accurately. The Date Required was 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

N/A

Approx. Cost of Compliance

\$100

TOTAL

\$20

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1086-MWD-E	<b>PCW</b>	
<b>Respondent</b> James F. Lunsford dba Fairview Joint Venture		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 36171		<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101516672			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> J. Craig Fleming			
<b>Violation Number</b>	3		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 319.7(a), 305.125(1), and 305.125(11)(B), and TPDES Permit No. WQ0013806001, Monitoring and Reporting Requirement No. 3.b		
<b>Violation Description</b>	Failed to retain facility records. Specifically, analytical record results from testing, process control data, maintenance records, and the collection and analysis times for field total chlorine residual ("TCR") and pH analyses were not documented and available for review.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
<b>Actual</b>	[ ]	[ ]	[ ]
<b>Potential</b>	[ ]	[ ]	[ ]
			<b>Percent</b> 0%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major      Moderate      Minor			
[ ]      [x]      [ ]      [ ]			<b>Percent</b> 10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
<b>Adjustment</b>			\$9,000
			\$1,000
<b>Violation Events</b>			
<b>Number of Violation Events</b>		1	<b>Number of violation days</b> 76
<small>mark only one with an x</small>	daily	[ ]	<b>Violation Base Penalty</b> \$1,000
	monthly	[ ]	
	quarterly	[ ]	
	semiannual	[ ]	
	annual	[ ]	
	single event	[x]	
One single event is recommended.			
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		Before NOV      NOV to EDRP/ Settlement Offer	
Extraordinary	[ ]	[ ]	
Ordinary	[ ]	[ ]	
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>		\$1,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b> \$10		<b>Violation Final Penalty Total</b> \$1,850	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,850	

### Economic Benefit Worksheet

Respondent James F. Lunsford dba Fairview Joint Venture  
 Case ID No. 36171  
 Reg. Ent. Reference No. RN101516672  
 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
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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	\$250	24-Apr-2008	15-Feb-2009	0.81	\$10	N/A	\$10
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 implement record keeping procedures. The Date Required was the date of the investigation.  
 The Final Date is the expected date of compliance.

#### 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

N/A

Approx. Cost of Compliance

\$250

TOTAL

\$10

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1086-MWD-E																			
<b>Respondent</b> James F. Lunsford dba Fairview Joint Venture	<b>PCW</b> <small>Policy Revision 2 (September 2002) PCW Revision June 12, 2008</small>																			
<b>Case ID No.</b> 36171																				
<b>Reg. Ent. Reference No.</b> RN101516672																				
<b>Media [Statute]</b> Water Quality																				
<b>Enf. Coordinator</b> J. Craig Fleming																				
<b>Violation Number</b> 4																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 217.281(a)(1) and 305.125(1) and (11), and TPDES Permit No. WQ0013806001, Effluent Limitations and Monitoring Requirements No. 2																			
<b>Violation Description</b>	Failed to maintain the 20 minute detention time in the chlorine contact basin. Specifically, a chlorine tablet container was observed resting on the V-notch weir indicating effluent disinfection occurred immediately prior to flowing into the outfall pipe.																			
<b>Base Penalty</b>	\$10,000																			
<b>&gt;&gt; Environmental, Property, and Human Health Matrix</b>																				
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td></td> <td style="text-align: center;">X</td> <td></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual				Percent <input type="text" value="10%"/>	Potential		X	
		Harm																		
Release	Major	Moderate	Minor																	
Actual				Percent <input type="text" value="10%"/>																
Potential		X																		
<b>&gt;&gt; Programmatic Matrix</b>																				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Falsification	Major	Moderate	Minor							Percent <input type="text" value="0%"/>							
	Falsification	Major	Moderate	Minor																
					Percent <input type="text" value="0%"/>															
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant 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>	\$9,000																			
<b>\$1,000</b>																				
<b>Violation Events</b>																				
<b>Number of Violation Events</b>	<input type="text" value="1"/> <input type="text" value="76"/> <b>Number of violation days</b>																			
mark only one with an x <table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">X</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		monthly		quarterly	X	semiannual		annual		single event		<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>							
daily																				
monthly																				
quarterly	X																			
semiannual																				
annual																				
single event																				
One quarterly event is recommended from the investigation date of April 24, 2008 to the screening date of July 9, 2008.																				
<b>Good Faith Efforts to Comply</b>																				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="2">0.0% Reduction</th> <td></td> </tr> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDRP/Settlement Offer</th> <td></td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> <td rowspan="3" style="vertical-align: middle;"><b>Violation Subtotal</b> <input type="text" value="\$1,000"/></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">X</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		0.0% Reduction				Before NOV	NOV to EDRP/Settlement Offer		Extraordinary			<b>Violation Subtotal</b> <input type="text" value="\$1,000"/>	Ordinary			N/A	X	(mark with x)	
	0.0% Reduction																			
	Before NOV	NOV to EDRP/Settlement Offer																		
Extraordinary			<b>Violation Subtotal</b> <input type="text" value="\$1,000"/>																	
Ordinary																				
N/A	X	(mark with x)																		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																			
<b>Economic Benefit (EB) for this violation</b>																				
<b>Estimated EB Amount</b>	<input type="text" value="\$6"/> <b>Violation Final Penalty Total</b> <input type="text" value="\$1,850"/>																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,850"/>																				

## Economic Benefit Worksheet

**Respondent** James F. Lunsford dba Fairview Joint Venture  
**Case ID No.** 36171  
**Reg. Ent. Reference No.** RN101516672  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$150	24-Apr-2008	1-Mar-2009	0.85	\$6	N/A	\$6
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 implement a procedure and train personnel to properly chlorinate the throughput. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

### 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

N/A

Approx. Cost of Compliance

\$150

TOTAL

\$6

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **PCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture *Policy Revision 2 (September 2002)*  
**Case ID No.** 36171 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101516672  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming  
**Violation Number** 5  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0013806001, Effluent Limitations and Monitoring Requirements No. 6  
**Violation Description** Failed to comply with permitted effluent limits. Specifically, a grab sample taken during the field investigation conducted on April 24, 2008 revealed a dissolved oxygen concentration of 0.41 milligrams per Liter ("mg/L") (minimum permit limit of 2.0 mg/L).  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$9,000

\$1,000

**Violation Events**

**Number of Violation Events** 1 **Number of violation days** 1  
*mark only one with an x*  
 daily   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event

**Violation Base Penalty** \$1,000

One single event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction **\$0**

	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** \$1,000

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

**Estimated EB Amount** \$4 **Violation Final Penalty Total** \$1,850

**This violation Final Assessed Penalty (adjusted for limits)** \$1,850

### Economic Benefit Worksheet

**Respondent** James F. Lunsford dba Fairview Joint Venture

**Case ID No.** 36171

**Reg. Ent. Reference No.** RN101516672

**Media** Water Quality

**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling	\$100	24-Apr-2008	15-Mar-2009	0.89	\$4	\$0	\$4
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for DELAYED costs**    Approximate cost to establish procedures to complete additional monthly testing. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

**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**    N/A

**Approx. Cost of Compliance**    \$100    **TOTAL**    \$4

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **PCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture *Policy Revision 2 (September 2002)*  
**Case ID No.** 36171 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101516672  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming  
**Violation Number** 6  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 217.37(a), 217.128, and 217.161(d) (formerly 317.4(a)(5)) and TPDES Permit No. WQ0013806001, Operational Requirements No. 4  
**Violation Description** Failed to provide a form of auxiliary power at the facility. Specifically, the facility does not have dual power feed, an equalization basin, or a telemetry alarm to notify the operator of power failures.  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$9,000

**Violation Events** **Number of Violation Events** 1 **Number of violation days** 76 **Violation Base Penalty** \$1,000

**Violation Events**

**Number of Violation Events** 1 **Number of violation days** 76 **Violation Base Penalty** \$1,000  
*mark only one with an x*  

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

One quarterly event is recommended from the investigation date of April 24, 2008 to the screening date of July 9, 2008.

**Good Faith Efforts to Comply** **0.0% Reduction** \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b> \$1,000		

**Economic Benefit (EB) for this violation** **Statutory Limit Test**  
**Estimated EB Amount** \$403 **Violation Final Penalty Total** \$1,850  
**This violation Final Assessed Penalty (adjusted for limits)** \$1,850

### Economic Benefit Worksheet

**Respondent:** James F. Lunsford dba Fairview Joint Venture

**Case ID No:** 36171

**Reg. Ent. Reference No:** RN101516672

**Media:** Water Quality

**Violation No:** 6

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

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

**Delayed Costs**

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$6,750	24-Apr-2008	1-Mar-2009	0.85	\$19	\$383	\$403
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**

The estimated cost of a portable generator capable of operating the Facility in case of a power outage (\$250), equilization basin (\$5,000), or a telemetry alarm system (\$1,500) in case of a power outage. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE: (1) avoided costs before entering item (except for one-time avoided costs)**

Item	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**

N/A

**Approx. Cost of Compliance**

**\$6,750**

**TOTAL**

**\$403**

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **PCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture Policy Revision 2 (September 2002)  
**Case ID No.** 36171 PCW Revision June 12, 2008  
**Reg. Ent. Reference No.** RN101516672  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming  
**Violation Number** 7  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0013806001, Sludge Provisions  
**Violation Description**  
 Failed to submit the annual sludge report by September 1 of each year as required by the permit. Specifically, the annual sludge reports were not submitted for the monitoring periods ending July 31 for the years 2004 through 2007.  
**Base Penalty** \$10,000

**>> Environmental Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			10%

**Matrix Notes**  
100% of the rule requirement was not met.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of violation days: 4 (1094)

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

**Violation Base Penalty** \$4,000

Four single events are recommended (one event for each report not submitted).

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	

**Violation Subtotal** \$4,000

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

**Estimated EB Amount** \$225 **Violation Final Penalty Total** \$7,400  
**This violation Final Assessed Penalty (adjusted for limits)** \$7,400

## Economic Benefit Worksheet

**Respondent:** James F. Lunsford dba Fairview Joint Venture

**Case ID/No:** 36171

**Reg. Ent. Reference No.:** RN101516672

**Media:** Water Quality

**Violation No.:** 7

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	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	\$1,000	1-Sep-2004	1-Mar-2009	4.50	\$225	N/A	\$225
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 approximate cost (\$250 per year) to submit the annual sludge reports. The Date Required was the date required by the Facility's permit for the first report. The Final Date is the expected date of compliance.

**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**

N/A

**Approx. Cost of Compliance**

\$1,000

**TOTAL**

\$225

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **PCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture *Policy Revision 2 (September 2002)*  
**Case ID No.** 36171 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101516672  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming  
**Violation Number** 8  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 317.4(a)(8) and 317.7(l)  
**Violation Description** Failed to properly install the reduced pressure backflow prevention assembly device ("RPBA") at the plant's main potable water service line and to test the RPBA annually. Specifically, it was observed that the RPBA was attached to the hose bib located adjacent to the mobile home park office and the equipment had never been tested.  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	X			25%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants which could exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$7,500

**\$2,500**

**Violation Events**

Number of violation days  
 mark only one with an x  

daily	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500  
 Three monthly events are recommended from the date of the investigation on April 24, 2008 to the date of screening on July 9, 2008.

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

Before NOV    NOV to EDRP/ Settlement Offer  
 Extraordinary    
 Ordinary    
 N/A  (mark with x)  
**Notes** The Respondent does not meet the good faith criteria for this violation.  
**Violation Subtotal** \$7,500

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

**Estimated EB Amount** \$31 **Violation Final Penalty Total** \$13,875  
**This violation Final Assessed Penalty (adjusted for limits)** \$13,875

### Economic Benefit Worksheet

**Respondent:** James F. Lunsford dba Fairview Joint Venture

**Case ID/No.:** 36171

**Reg. Ent. Reference No.:** RN101516672

**Media:** Water Quality

**Violation No.:** 8

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

Item/Description	Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
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**Delayed Costs**

Equipment	\$500	24-Apr-2008	15-Feb-2009	0.81	\$1	\$27	\$28
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)	\$50	24-Apr-2008	15-Feb-2009	0.81	\$2	N/A	\$2

Notes for DELAYED costs

The estimated cost to purchase and install a pressure backflow prevention assembly at the Facility's main potable water service line (\$500) and conduct annual testing. The Date Required was the date of the investigation. 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

N/A

Approx. Cost of Compliance

\$550

TOTAL

\$31

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **PCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture *Policy Revision 2 (September 2002)*  
**Case ID No.** 36171 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101516672  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming  
**Violation Number** 9  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(5) and 217.123(b) (formerly 317.4(b)(4)), and TPDES Permit No. WQ0013806001, Operational Requirements No. 1  
**Violation Description** Failed to properly dispose of screenings. Specifically, wet screenings which had attracted a large number of flies were observed in a nearby trash bin.  
**Base Penalty** \$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** 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.  
**Adjustment** \$9,500

\$500

**Violation Events**

Number of Violation Events: 1      76      Number of violation days  
 mark only one with an x  

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

**Violation Base Penalty** \$500  
 One single event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction **\$0**

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

**Notes** The Respondent does not meet the good faith criteria for this violation.  
**Violation Subtotal** \$500

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

**Estimated EB Amount** \$1      **Violation Final Penalty Total** \$925  
**This violation Final Assessed Penalty (adjusted for limits)** \$925

### Economic Benefit Worksheet

Respondent: James F. Lunsford dba Fairview Joint Venture

Case ID No: 36171

Reg. Ent. Reference No: RN101516672

Media: Water Quality

Violation No: 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	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	\$25	24-Apr-2008	15-Feb-2009	0.81	\$0	\$1	\$1
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

The estimated cost to purchase suitable containers with lids to contain the screenings. The Date Required was the date of the investigation. The Final Date is the expected date of compliance

**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

N/A

Approx. Cost of Compliance

\$25

**TOTAL**

\$1

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1086-MWD-E	<b>RCW</b>		
<b>Respondent</b> James F. Lunsford dba Fairview Joint Venture	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36171	<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101516672				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> J. Craig Fleming				
<b>Violation Number</b> 10				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0013806001, Operational Requirements No. 1			
<b>Violation Description</b>	Failed to properly operate and maintain the treatment system. Specifically, it was documented that the clarifier was very turbid, the mixed liquor was a dark brown in color, the two diffusers were providing minimal oxygen exchange, solids had not been removed from the plant in approximately three to four years, and excessive corrosion of the facility was observed.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property, and Human Health Matrix</b>				
OR	<b>Harm</b>			<b>Percent</b>
	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Potential</b>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
<b>Major</b>				
<b>Moderate</b>				
<b>Minor</b>				
<input type="text"/>			<b>Percent</b> <input type="text" value="0%"/>	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant 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>			\$9,000	
			<b>\$1,000</b>	
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="76"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<b>Violation Base Penalty</b>			\$1,000	
One quarterly event is recommended from the investigation date of April 24, 2008 to the screening date of July 9, 2008.				
<b>Good Faith Efforts to Comply</b>			<b>\$0</b>	
			<b>0.0% Reduction</b>	
			<b>Before NOV    NOV to EDRP/Sellment Offer</b>	
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>		
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>		
<b>N/A</b>	<input checked="" type="checkbox"/>	<input type="text"/>	<i>(mark with x)</i>	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>			\$1,000	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		<input type="text" value="\$82"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$1,850"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$1,850"/>	

### Economic Benefit Worksheet

Respondent: James F. Lunsford dba Fairview Joint Venture

Case ID No: 36171

Reg. Ent. Reference No: RN101516672

Media: Water Quality

Violation No: 10

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,250	24-Apr-2008	1-Apr-2009	0.94	\$4	\$78	\$82
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

The estimated cost to rebuild the diffusers (\$500), remove and dispose of the solids (\$250), and repair or replace the corroded components of the Facility (\$500). The Date Required was the date of the Investigation. The Final Date is the expected date of compliance.

**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

N/A

Approx. Cost of Compliance

\$1,250

**TOTAL**

\$82

<b>Screening Date</b> 9-Jul-2008	<b>Docket No.</b> 2008-1086-MWD-E																			
<b>Respondent</b> James F. Lunsford dba Fairview Joint Venture	<small>Policy Revision 2 (September 2002)</small>																			
<b>Case ID No.</b> 36171	<small>PCW Revision June 12, 2008</small>																			
<b>Reg. Ent. Reference No.</b> RN101516672																				
<b>Media [Statute]</b> Water Quality																				
<b>Enf. Coordinator</b> J. Craig Fleming																				
<b>Violation Number</b> 11																				
<b>Rule Cite(s)</b> 30 Tex. Admin. Code § 319.11(d) and TPDES Permit No. WQ0013806001 Monitoring and Reporting No. 2																				
<b>Violation Description</b>	Failed to accurately calculate instantaneous flow measurements. Specifically, the flow measurements were calculated for a 90 degree V-notch weir but the measuring device was for a 60 degree V-notch weir, and the flow conversion chart being utilized was inconsistent with both the 60 degree and 90 degree V-notch weir flow conversion equations. In addition a staff gauge was not provided, therefore the instantaneous flow measurements were taken by improperly inserting a ruler in the V-notch of the weir.																			
<b>Base Penalty</b>	\$10,000																			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td><b>Release</b></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td><b>Actual</b></td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;"><b>Percent</b> 5%</td> </tr> <tr> <td><b>Potential</b></td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> </table>		Harm				<b>Release</b>	Major	Moderate	Minor		<b>Actual</b>				<b>Percent</b> 5%	<b>Potential</b>			x
		Harm																		
<b>Release</b>	Major	Moderate	Minor																	
<b>Actual</b>				<b>Percent</b> 5%																
<b>Potential</b>			x																	
<b>&gt;&gt; Programmatic Matrix</b>																				
Matrix Notes	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td><b>Falsification</b></td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;"><b>Percent</b> 0%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Major	Moderate	Minor		<b>Falsification</b>				<b>Percent</b> 0%									
		Major	Moderate	Minor																
<b>Falsification</b>				<b>Percent</b> 0%																
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>	\$9,500																			
<b>\$500</b>																				
<b>Violation Events</b>																				
<b>Number of Violation Events</b>	2																			
<b>Number of violation days</b>	76																			
<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td rowspan="6" style="text-align: center; vertical-align: middle;"><small>mark only one with an x</small></td> <td>daily</td> <td></td> </tr> <tr> <td>monthly</td> <td></td> </tr> <tr> <td>quarterly</td> <td></td> </tr> <tr> <td>semiannual</td> <td></td> </tr> <tr> <td>annual</td> <td></td> </tr> <tr> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table>	<small>mark only one with an x</small>	daily		monthly		quarterly		semiannual		annual		single event	x	<b>Violation Base Penalty</b> \$1,000						
<small>mark only one with an x</small>		daily																		
		monthly																		
		quarterly																		
		semiannual																		
		annual																		
	single event	x																		
Two single events are recommended.																				
<b>Good Faith Efforts to Comply</b>																				
<b>0.0% Reduction</b>	<b>\$0</b>																			
<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDRP/Settlement Offer</th> </tr> <tr> <td><b>Extraordinary</b></td> <td></td> <td></td> </tr> <tr> <td><b>Ordinary</b></td> <td></td> <td></td> </tr> <tr> <td><b>N/A</b></td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDRP/Settlement Offer	<b>Extraordinary</b>			<b>Ordinary</b>			<b>N/A</b>	x	(mark with x)								
	Before NOV	NOV to EDRP/Settlement Offer																		
<b>Extraordinary</b>																				
<b>Ordinary</b>																				
<b>N/A</b>	x	(mark with x)																		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																			
<b>Violation Subtotal</b>	\$1,000																			
<b>Economic Benefit (EB) for this violation</b>																				
<b>Estimated EB Amount</b>	\$11																			
<b>Violation Final Penalty Total</b>	\$1,850																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,850																				

### Economic Benefit Worksheet

**Respondent:** James F. Lunsford dba Fairview Joint Venture

**Case ID/No:** 36171

**Reg. Ent. Reference No.:** RN101516672

**Media:** Water Quality

**Violation No.:** 11

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$150	24-Apr-2008	1-Mar-2009	0.85	\$0	\$9	\$9
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	\$50	24-Apr-2008	1-Mar-2009	0.85	\$2	N/A	\$2
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 train personnel on the correct method to properly calculate the instantaneous flow measurements (\$50), and the cost to purchase and install (\$150) a staff gauge respectively. The Date Required was the date of the investigation. 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

N/A

Approx. Cost of Compliance

\$200

TOTAL

\$11

**Screening Date** 9-Jul-2008 **Docket No.** 2008-1086-MWD-E **PCW**  
**Respondent** James F. Lunsford dba Fairview Joint Venture Policy Revision 2 (September 2002)  
**Case ID No.** 36171 PCW Revision June 12, 2008  
**Reg. Ent. Reference No.** RN101516672  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming  
 V12   
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0013806001, Other Requirements No. 8  
**Violation Description** Failed to submit a report that addresses the feasibility of connecting the system served by the permitted facility within six months of issuance of the permit. Specifically, the report was due August 12, 2007.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

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

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
<input type="text"/>	x	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

**Violation Base Penalty**

**Good Faith Efforts to Comply**

0.0% Reduction

	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)

**Notes**

**Violation Subtotal**

**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:** James F. Lunsford dba Fairview Joint Venture  
**Case ID No.:** 36171  
**Reg. Ent. Reference No.:** RN101516672  
**Media:** Water Quality  
**Violation No.:** 12

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)	\$1,000	12-Aug-2007	15-Mar-2009	1.59	\$80	N/A	\$80

Notes for DELAYED costs

Estimated cost for submitting the report. The Date Required was the date requiring the report to be submitted. 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

N/A

Approx. Cost of Compliance

\$1,000

TOTAL

\$80

# Compliance History

Customer/Respondent/Owner-Operator: CN602310195 Lunsford James F dba Fairview Joint Venture Classification: AVERAGE Rating: 25.75

Regulated Entity: RN101516672 FAIRVIEW MHP Classification: AVERAGE Site Rating: 25.75

ID Number(s): WASTEWATER PERMIT WQ0013806001  
WASTEWATER PERMIT TPDES0066737  
WASTEWATER LICENSING LICENSE WQ0013806001

Location: East of U.S. Route 75, one mile south of the intersection of State Route 121 and U.S. Route 75 in Collin County, Texas Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: July 04, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 04, 2003 to July 04, 2008

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

Name: J. Craig Fleming Phone: (512) 239-5806

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1	07/23/2003	(310687)
2	08/25/2003	(310688)
3	10/01/2003	(310689)
4	10/28/2003	(310690)
5	11/24/2003	(310691)
6	12/29/2003	(310692)
7	01/26/2004	(310693)
8	02/20/2004	(310682)
9	04/05/2004	(310684)
10	04/23/2004	(310685)
11	05/28/2004	(358278)
12	07/07/2004	(358279)
13	02/14/2005	(385259)
14	02/22/2005	(385258)
15	04/07/2005	(376307)
16	04/25/2005	(423297)
17	12/07/2005	(474492)
18	08/08/2006	(531027)
19	08/21/2006	(509530)

20 03/05/2007 (622767)  
 21 03/05/2007 (622769)  
 22 03/05/2007 (622771)  
 23 03/05/2007 (622773)  
 24 03/05/2007 (622775)  
 25 03/05/2007 (622777)  
 26 03/05/2007 (622779)  
 27 03/05/2007 (622781)  
 28 03/05/2007 (622783)  
 29 03/05/2007 (622785)  
 30 03/05/2007 (622786)  
 31 03/05/2007 (622787)  
 32 04/09/2007 (622768)  
 33 04/09/2007 (622770)  
 34 05/04/2007 (622772)  
 35 06/08/2007 (622774)  
 36 07/24/2007 (622776)  
 37 08/08/2007 (622778)  
 38 09/06/2007 (622780)  
 39 11/26/2007 (622782)  
 40 11/26/2007 (622784)  
 41 03/04/2008 (674275)  
 42 03/04/2008 (674276)  
 43 04/24/2008 (674273)  
 44 04/24/2008 (674274)  
 45 06/17/2008 (681669)

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

1	Date 07/31/2003 (310688)		
	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		
2	Date 08/31/2003 (310689)		
	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		
3	Date 09/30/2003 (310690)		
	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		
4	Date 10/31/2003 (310691)		
	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		
5	Date 11/30/2003 (310692)		
	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		
6	Date 12/31/2003 (310693)		
	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		
7	Date 01/31/2004 (310682)		
	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		
8	Date	02/29/2004 (310684)		
	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		
9	Date	03/31/2004 (310685)		
	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		
10	Date	04/30/2004 (358278)		
	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		
11	Date	05/31/2004 (358279)		
	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		
12	Date	01/31/2005 (385258)		
	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		
13	Date	02/28/2005 (423297)		
	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		
14	Date	04/08/2005 (376307)		
	Self Report?	NO	Classification	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(11) 30 TAC Chapter 319, SubChapter A 319.7(a) 30 TAC Chapter 319, SubChapter A 319.7(c) TWC Chapter 26 26.121		
	Rqmt Prov:	PERMIT M&R 1,2,3,6 and PC 2a, 2b		
	Description:	Unauthorized discharge. Solids in area of outfall.		
	Self Report?	NO	Classification	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121		
	Rqmt Prov:	PERMIT OR 7 PERMIT OR 9 PERMIT PC 2a, 2b		
	Description:	Failure to submit noncompliance notification.		
	Self Report?	NO	Classification	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.126(a) TWC Chapter 26 26.121		
	Rqmt Prov:	PERMIT MR 1, 2, 6 PERMIT OR 8 PERMIT PC 2a, 2b		
	Description:	Failure to conduct quarterly testing for constituents on Other Requirements 7, Page 24 of the permit.		
	Self Report?	NO	Classification	Major
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		

	30 TAC Chapter 305, SubChapter F 305.125(4) TWC Chapter 26 26.121		
Rqmt Prov:	PERMIT ELMR 4 PERMIT PC 2a, 2b		
Description:	Failure to comply with permit limitations.		
Self Report?	YES	Classification	Major
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121		
Rqmt Prov:	PERMIT OR No. 1 PERMIT PC 2a, 2b		
Description:	Failure to comply with 75/90 rule since 2/98.		
Self Report?	NO	Classification	Major
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT MR #1		
Description:	Grab sample collected during inspection shows effluent excursions.		
Self Report?	NO	Classification	Major
Citation:	30 TAC Chapter 305, SubChapter F 305.125		
Rqmt Prov:	PERMIT MR req pg 4		
Description:	Failure to retain lab records, accurately report # of permit effluent excursions, correctly calculate daily loads for BOD and TSS and maintain accurate daily log for field measurements.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to provide a reduced pressure backflow prevention assembly device (RPBA) at the plant's main potable water service line.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(5)		
Rqmt Prov:	PERMIT WQ0013806-001		
Description:	Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B)		
Rqmt Prov:	PERMIT WQ0013806-001		
Description:	Failure to complete and submit annual sludge DMRs with attachments by September 1 of each year.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.5(b)		
Rqmt Prov:	PERMIT WQ0013806-001		
Description:	Failure to monitor flow and TCR at the required frequencies.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT WQ0013806-001		
Description:	Failure to accurately calculate instantaneous flow measurements.		
15	Date 09/30/2005 (474492)		
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		
16	Date 01/31/2006 (622767)		
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		
17	Date 08/08/2006 (531027)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

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  
JAMES F. LUNSFORD DBA  
FAIRVIEW JOINT VENTURE;  
RN101516672**

§  
§  
§  
§  
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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2008-1086-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is James F. Lunsford dba Fairview Joint Venture ("James F. Lunsford").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. James F. Lunsford owns and operates the Fairview Mobile Home Park Wastewater Treatment Facility located east of U.S. Route 75, one mile south of the intersection of State Route 121 and U.S. Route 75 in Collin County, Texas (the "Facility").
2. The Facility discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an investigation conducted on April 24, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that James F. Lunsford:
  - a. Failed to operate and maintain the Facility to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, plant upsets were indicated by the accumulated solids and paper trash indicative of wastewater treatment from the discharge pipe to the receiving stream;
  - b. Failed to submit non-compliance notifications as required. Specifically, the biochemical oxygen demand values reported for the month of November 2007

exceeded the permitted limit by more than 40% and was not reported to the regional office and Enforcement Division;

- c. Failed to retain facility records. Specifically, analytical record results from testing, process control data, maintenance records, and the collection and analysis times for field total chlorine residual ("TCR") and pH analyses were not documented and available for review;
- d. Failed to maintain the 20 minute detention time in the chlorine contact basin. Specifically, a chlorine tablet container was observed resting on the V-notch weir indicating effluent disinfection occurred immediately prior to flowing into the outfall pipe;
- e. Failed to comply with permitted effluent limits. Specifically, a grab sample taken during the field investigation conducted on April 24, 2008 revealed a dissolved oxygen concentration of 0.41 milligrams per Liter ("mg/L") (minimum permit limit of 2.0 mg/L);
- f. Failed to provide a form of auxiliary power at the facility. Specifically, the facility does not have dual power feed, an equalization basin, or a telemetry alarm to notify the operator of power failures;
- g. Failed to submit the annual sludge report by September 1 of each year as required by the permit. Specifically, the annual sludge reports were not submitted for the monitoring periods ending July 31 for the years 2004 through 2007;
- h. Failed to properly install the reduced pressure backflow prevention assembly device ("RPBA") at the plant's main potable water service line and to test the RPBA annually. Specifically, it was observed that the RPBA was attached to the hose bib located adjacent to the mobile home park office and the equipment had never been tested;
- i. Failed to properly dispose of screenings. Specifically, wet screenings which had attracted a large number of flies were observed in a nearby trash bin;
- j. Failed to properly operate and maintain the treatment system. Specifically, it was documented that the clarifier was very turbid, the mixed liquor was a dark brown in color, the two diffusers were providing minimal oxygen exchange, solids had not been removed from the plant in approximately three to four years, and excessive corrosion of the facility was observed;

- k. Failed to accurately calculate instantaneous flow measurements. Specifically, the flow measurements were calculated for a 90 degree V-notch weir but the measuring device was for a 60 degree V-notch weir, and the flow conversion chart being utilized was inconsistent with both the 60 degree and 90 degree V-notch weir flow conversion equations. In addition, a staff gauge was not provided, therefore the instantaneous flow measurements were taken by improperly inserting a ruler in the V-notch of the weir; and
  - l. Failed to submit a report that addresses the feasibility of connecting the system served by the permitted facility within six months of issuance of the permit. Specifically, the report was due August 12, 2007.
4. James F. Lunsford received notice of the violations on or about June 21, 2008.
  5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of James F. Lunsford dba Fairview Joint Venture" (the "EDPRP") in the TCEQ Chief Clerk's office on January 5, 2009.
  6. By letter dated January 5, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served James F. Lunsford with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that James F. Lunsford received notice of the EDPRP.
  7. More than 20 days have elapsed since James F. Lunsford received notice of the EDPRP, provided by the Executive Director. James F. Lunsford failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, James F. Lunsford is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., James F. Lunsford failed to operate and maintain the Facility to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, plant upsets were indicated by the accumulated solids and paper trash indicative

of wastewater treatment from the discharge pipe to the receiving stream in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0013806001, Permit Condition 2.d.

3. As evidenced by Finding of Fact No. 3.b., James F. Lunsford failed to submit non-compliance notifications as required. Specifically, the biochemical oxygen demand values reported for the month of November 2007 exceeded the permitted limit by more than 40% and was not reported to the regional office and Enforcement Division, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0013806001, Monitoring and Reporting Requirement No. 7c.
4. As evidenced by Finding of Fact No. 3.c., James F. Lunsford failed to retain facility records. Specifically, analytical record results from testing, process control data, maintenance records, and the collection and analysis times for field TCR and pH analyses were not documented and available for review in violation of 30 TEX. ADMIN. CODE §§ 319.7(a), 305.125(1), and 305.125(11)(B), and TPDES Permit No. WQ0013806001, Monitoring and Reporting Requirement No. 3.b.
5. As evidenced by Finding of Fact No. 3.d., James F. Lunsford failed to maintain the 20 minute detention time in the chlorine contact basin. Specifically, a chlorine tablet container was observed resting on the V-notch weir indicating effluent disinfection occurred immediately prior to flowing into the outfall pipe in violation of 30 TEX. ADMIN. CODE §§ 217.281(a)(1) and 305.125(1) and (11), and TPDES Permit No. WQ0013806001, Effluent Limitations and Monitoring Requirements No. 2.
6. As evidenced by Finding of Fact No. 3.e., James F. Lunsford failed to comply with permitted effluent limits. Specifically, a grab sample taken during the field investigation conducted on April 24, 2008 revealed a dissolved oxygen concentration of 0.41 mg/L (minimum permit limit of 2.0 mg/L), in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0013806001, Effluent Limitations and Monitoring Requirements No. 6.
7. As evidenced by Finding of Fact No. 3.f., James F. Lunsford failed to provide a form of auxiliary power at the facility. Specifically, the facility does not have dual power feed, an equalization basin, or a telemetry alarm to notify the operator of power failures in violation of 30 TEX. ADMIN. CODE § 317.4(a)(5)(currently §§217.37(a), 217.128, and 217.161(d)) and TPDES Permit No. WQ0013806001, Operational Requirements No. 4.
8. As evidenced by Finding of Fact No. 3.g., James F. Lunsford failed to submit the annual sludge report by September 1 of each year as required by the permit. Specifically, the annual sludge reports were not submitted for the monitoring periods ending July 31 for the years

2004 through 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013806001, Sludge Provisions.

9. As evidenced by Finding of Fact No. 3.h., James F. Lunsford failed to properly install the RPBA at the plant's main potable water service line and to test the RPBA annually. Specifically, it was observed that the RPBA was attached to the hose bib located adjacent to the mobile home park office and the equipment had never been tested, in violation of 30 TEX. ADMIN. CODE §§ 317.4(a)(8) and 317.7(i), (currently §§ 217.330(a) and (b)).
10. As evidenced by Finding of Fact No. 3.i., James F. Lunsford failed to properly dispose of screenings. Specifically, wet screenings which had attracted a large number of flies were observed in a nearby trash bin, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(b)(4)(currently § 217.123(b), and TPDES Permit No. WQ0013806001, Operational Requirements No. 1.
11. As evidenced by Finding of Fact No. 3.j., James F. Lunsford failed to properly operate and maintain the treatment system. Specifically, it was documented that the clarifier was very turbid, the mixed liquor was a dark brown in color, the two diffusers were providing minimal oxygen exchange, solids had not been removed from the plant in approximately three to four years, and excessive corrosion of the facility was observed in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0013806001, Operational Requirements No. 1.
12. As evidenced by Finding of Fact No. 3.k., James F. Lunsford failed to accurately calculate instantaneous flow measurements. Specifically, the flow measurements were calculated for a 90 degree V-notch weir but the measuring device was for a 60 degree V-notch weir, and the flow conversion chart being utilized was inconsistent with both the 60 degree and 90 degree V-notch weir flow conversion equations. In addition a staff gauge was not provided, therefore the instantaneous flow measurements were taken by improperly inserting a ruler in the V-notch of the weir, in violation of 30 TEX. ADMIN. CODE § 319.11(d) and TPDES Permit No. WQ0013806001 Monitoring and Reporting No. 2.
13. As evidenced by Finding of Fact No. 3.l., James F. Lunsford failed to submit a report that addresses the feasibility of connecting the system served by the permitted facility within six months of issuance of the permit. Specifically, the report was due August 12, 2007 in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013806001, Other Requirements No. 8.
14. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served James F. Lunsford with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

15. As evidenced by Finding of Fact No. 7, James F. Lunsford failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against James F. Lunsford and assess the penalty recommended by the Executive Director.
16. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against James F. Lunsford for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
17. An administrative penalty in the amount of thirty-eight thousand eight hundred fifty dollars (\$38,850.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
18. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. James F. Lunsford is assessed an administrative penalty in the amount of thirty-eight thousand eight hundred fifty dollars (\$38,850.00) for violations of the Texas Water Code, and the rules of the TCEQ. The payment of this administrative penalty and James F. Lunsford's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: James F. Lunsford dba Fairview Joint Venture; Docket No. 2008-1086-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. James F. Lunsford shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Order:
    - i. Implement a procedure whereby the appropriate records are appropriately maintained, as required by 30 TEX. ADMIN. CODE § 319.7(a);
    - ii. Install a reduced pressure backflow prevention assembly device and test it annually, as required by 30 TEX. ADMIN. CODE § 217.330(a) and (b); and
    - iii. Provide suitable containers with lids to contain the screenings, as required by 30 TEX. ADMIN. CODE § 217.123(b).
  - b. Within 30 days after the effective date of this Order James F. Lunsford shall:
    - i. Develop and implement reporting procedures for noncompliance reporting for effluent violations that deviate by more than 40% from the permitted effluent limitations, and for unauthorized discharges. The reports shall be submitted within the time frames established by TPDES Permit No. WQ0013806001, Monitoring and Reporting Requirement No. 7(c);
    - ii. Develop and train personnel on the procedures to properly chlorinate the discharge from the Facility, as required by Tex. Admin. Code § 217.281(a)(1);
    - iii. Provide a method of auxiliary emergency power for the Facility, an equalization basin, or a telemetry alarm system, as required by TPDES Permit No. WQ0013806001, Operational Requirements No. 4;
    - iv. Submit the annual sludge reports for the monitoring periods ending July 31, for the years 2004, 2005, 2006, and 2007, as required by TPDES Permit No. WQ0013806001, Sludge Provisions; and,

- v. Train staff to accurately calculate instantaneous flow measurements, as required by TPDES Permit No. WQ0013806001, Monitoring and Reporting No. 2.
  
- c. Within 45 days after the effective date of this Order James F. Lunsford shall:
  - i. Submit documentation of the corrective actions taken to clean the receiving ditch and to prevent the recurrence of any discharges of solids to the receiving ditch; and,
  - ii. Submit the report to the Executive Director that addresses the feasibility of connecting the system served by the permitted facility, as required by TPDES Permit No. WQ0013806001, Other Requirements No. 8.
  
- d. Within 60 days after the effective date of this Order James F. Lunsford shall:
  - i. Complete repairs or replacement of the defective components of the Facility's systems including, but not limited to, diffusers, the corroded components of the Facility, and the removal and disposal of the solids, as required by TPDES Permit No. WQ0013806001, Operational Requirement No. 1; and,
  - ii. Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013806001, 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.
  
- e. Within 75 days after the effective date of this Order, James F. Lunsford shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.d.

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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon James F. Lunsford. James F. Lunsford is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If James F. Lunsford fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, James F. Lunsford's failure to comply is not a violation of this Order. James F. Lunsford shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. James F. Lunsford shall notify the Executive Director within seven days after James F. Lunsford becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by James F. Lunsford shall be made in writing to the Executive Director. Extensions are not effective until James F. Lunsford receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to James F. Lunsford if the Executive Director determines that James F. Lunsford has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

AFFIDAVIT OF JACQUELYN BOUTWELL

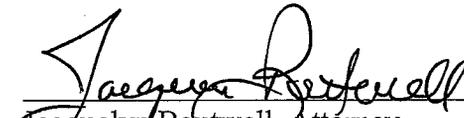
STATE OF TEXAS §  
  §  
COUNTY OF TRAVIS §

“My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of James F. Lunsford dba Fairview Joint Venture” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 5, 2009.

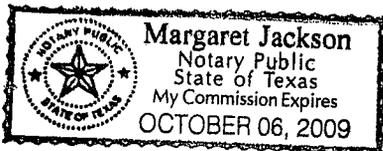
The EDPRP was mailed to James F. Lunsford at his last known address on January 5, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that James F. Lunsford received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

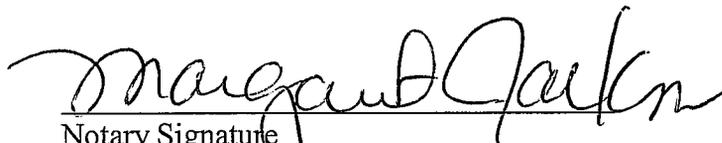
More than 20 days have elapsed since James F. Lunsford received notice of the EDPRP. James F. Lunsford failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

  
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Jacquelyn Boutwell, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 10 day of February A.D., 2009.



  
\_\_\_\_\_  
Notary Signature