

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0433-IWD-E **TCEQ ID:** RN102037959 **CASE NO.:** 37368
RESPONDENT NAME: Texas Barge & Boat, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Texas Barge & Boat Freeport Facility, located approximately 2.5 miles south of the intersection of State Highway 288 and County Road 242A, Brazoria County</p> <p>TYPE OF OPERATION: Barge cleaning and marine vessel repair facility with a wastewater treatment system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 22, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Mickey W. Tiner, President and CEO, Texas Barge & Boat, Inc., P.O. Box 2107, Freeport, Texas 77542 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 26, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 13, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for total suspended solids, oil and grease, and total organic carbon [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004696000, Effluent Limitations and Monitoring Requirements No. 1 at Outfall 004].</p>	<p>Total Assessed: \$5,970</p> <p>Total Deferred: \$1,194 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,776</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0004696000, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0004696000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Mar-2009	Screening	25-Mar-2009	EPA Due	
	PCW	25-Mar-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Barge & Boat, Inc.
Reg. Ent. Ref. No.	RN102037959
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37368	No. of Violations	1
Docket No.	2009-0433-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: The Respondent self-reported seven months of effluent violations, was issued two Notices of Violations with violations unrelated to those cited in this action, and received three Agreed Orders with denial of liability language.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction Adjustment

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 25-Mar-2009

Docket No. 2009-0433-IWD-E

PCW

Respondent Texas Barge & Boat, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37368

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102037959

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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 <i>(number of NOVs meeting criteria)</i>	7	35%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 99%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent self-reported seven months of effluent violations, was issued two Notices of Violations with violations unrelated to those cited in this action, and received three Agreed Orders with denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 99%

Screening Date 25-Mar-2009	Docket No. 2009-0433-IWD-E	PCW	
Respondent Texas Barge & Boat, Inc.	<small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>		
Case ID No. 37368			
Reg. Ent. Reference No. RN102037959			
Media [Statute] Water Quality			
Enf. Coordinator Heather Brister			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0004696000, Effluent Limitations and Monitoring Requirements No. 1 at Outfall No. 004		
Violation Description	Failed to comply with permitted effluent limits, as documented by a TCEQ record review conducted on February 26, 2009, and as shown in the attached table.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="10%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="0%"/>
Matrix Notes	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			<input type="text" value="\$9,000"/>
			<input type="text" value="\$1,000"/>
Violation Events			
	Number of Violation Events	<input type="text" value="3"/>	Number of violation days
		<input type="text" value="152"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$3,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
Three quarterly events are recommended.			
Good Faith Efforts to Comply			<input type="text" value="\$0"/>
	<input type="text" value="0.0%"/> Reduction		
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="text" value="x"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal			<input type="text" value="\$3,000"/>
Economic Benefit (EB) for this violation			Statutory Limit Test
Estimated EB Amount	<input type="text" value="\$642"/>	Violation Final Penalty Total	<input type="text" value="\$5,970"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$5,970"/>

Economic Benefit Worksheet

Respondent Texas Barge & Boat, Inc.
Case ID No. 37368
Reg. Ent. Reference No. RN102037959
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$7,000	31-Jan-2008	30-Nov-2009	1.83	\$642	n/a	\$642

Notes for DELAYED costs

Estimated cost to evaluate the cause of noncompliance and to make necessary adjustments at the Facility to achieve compliance with permitted effluent limits. Date Required is the initial month of noncompliance. Final Date is the anticipated 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

Approx. Cost of Compliance

\$7,000

TOTAL

\$642

Effluent Limit Violation Table

table rev.

Respondent	Texas Barge & Boat , Inc.		
ID Number(s)	WQ0004696000		
Docket Number	2009-0433-IWD-E		
Enf. Coordinator	Heather Brister		

Corresponds to Violation Number:

1

<i>EFFLUENT PARAMETER</i>			
<i>Permit Limit</i>			
	Total Suspended Solids Daily Maximum Concentration 100 Milligrams per Liter	Oil and Grease Daily Maximum Concentration 15 Milligrams per Liter	Total Organic Carbon Daily Maximum Concentration 150 Milligrams per Liter
<i>Month/Year</i>			
Jan-08	112	24	1480
Feb-08	c	54	c
Jun-08	114	c	c
Jul-08	910	c	c
Aug-08	156	c	c

c - compliant

Compliance History Report

Customer/Respondent/Owner-Operator: CN600129183 Texas Barge & Boat, Inc. Classification: AVERAGE Rating: 3.09
 Regulated Entity: RN102037959 TEXAS BARGE & BOAT Classification: AVERAGE Site Rating: 3.09
 FREEPORT FACILITY

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0423N
	AIR OPERATING PERMITS	PERMIT	1698
	PETROLEUM STORAGE	REGISTRATION	64696
	TANK REGISTRATION		
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0423N
	AIR NEW SOURCE PERMITS	PERMIT	21711
	AIR NEW SOURCE PERMITS	PERMIT	22106
	AIR NEW SOURCE PERMITS	AFS NUM	4803900126
	AIR NEW SOURCE PERMITS	REGISTRATION	81954
	STORMWATER	PERMIT	TXR05P327
	WASTEWATER	PERMIT	WQ0004696000
	WASTEWATER	EPA ID	TX0126322
	WASTEWATER	PERMIT	TX0126322
	INDUSTRIAL AND	SOLID WASTE	81437
	HAZARDOUS WASTE	REGISTRATION #	
	GENERATION	(SWR)	

Location: Located approximately 2.5 miles south of the intersection of State Highway 288 and County Road 242A, Brazoria County, Texas

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: March 20, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: March 20, 2004 to March 20, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: 254/761-3034

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO | |

Components (Multimedia) for the Site :

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

Effective Date: **11/06/2005** ADMINORDER 2004-1477-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Description: Failure to submit the Annual Compliance Certification, required by Title V Permit No. O-01698, within 60 days of the end of the certification period.

Effective Date: **03/05/2007** ADMINORDER 2006-0874-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.0518(a)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: No. O-01698, SC 13A OP
 Description: Failed to obtain permit authorization prior to venting barges containing a sodium hydroxide (caustic) heel to a flare while depressurizing, cleaning and stripping the barges.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(B)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter D.382.085(b)

Rqmt Prov: No. O-01698, General Terms and Condition OP

Description: Failed to report deviations of FOP No. O-01698 within 30 days of the end of the certification period.

Effective Date: 06/05/2008

ADMINORDER 2007-1482-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: FOP O-01698 General Terms & Conditions OP

Description: Failed to report a deviation within 30 days after the end of the deviation reporting period. Specifically, the semi-annual deviation report for the December 29, 2005 to June 28, 2006 deviation reporting period was due to be submitted by July 28, 2006, but was not submitted until August 27, 2007.

- 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. (CEDS Inv. Track. No.)

1	08/30/2004	(251111)
2	09/24/2004	(368290)
3	09/28/2004	(335365)
4	10/18/2004	(368291)
5	11/29/2004	(390888)
6	12/27/2004	(390889)
7	01/25/2005	(390890)
8	02/22/2005	(428323)
9	03/08/2005	(372865)
10	03/21/2005	(390887)
11	04/15/2005	(428324)
12	05/18/2005	(428325)
13	06/01/2005	(428326)
14	07/21/2005	(448275)
15	08/08/2005	(401606)
16	08/23/2005	(448276)
17	09/20/2005	(448277)
18	10/26/2005	(493954)
19	11/28/2005	(493955)
20	12/13/2005	(493956)
21	01/10/2006	(493957)
22	06/12/2006	(457670)
23	11/21/2006	(552216)
24	11/21/2006	(552218)
25	11/21/2006	(552219)
26	11/21/2006	(552220)
27	12/27/2006	(552214)
28	12/27/2006	(552215)
29	12/27/2006	(552217)
30	01/22/2007	(589811)
31	01/22/2007	(589814)
32	01/22/2007	(589816)
33	01/22/2007	(589819)
34	01/22/2007	(589820)
35	02/21/2007	(589812)
36	03/22/2007	(589813)
37	04/23/2007	(589815)
38	05/23/2007	(589817)
39	06/21/2007	(589818)
40	07/16/2007	(606028)
41	07/20/2007	(565703)
42	08/20/2007	(606029)
43	08/31/2007	(574422)
44	09/04/2007	(606030)
45	10/26/2007	(633856)
46	11/26/2007	(633857)
47	12/27/2007	(633858)
48	01/18/2008	(635976)

49 01/23/2008 (677912)
 50 02/04/2008 (677910)
 51 02/04/2008 (677911)
 52 02/04/2008 (677913)
 53 02/25/2008 (677909)
 54 03/20/2008 (718461)
 55 04/23/2008 (696741)
 56 05/19/2008 (696742)
 57 06/30/2008 (718462)
 58 07/21/2008 (718463)
 59 08/25/2008 (595563)
 60 08/25/2008 (718464)
 61 08/31/2008 (733696)
 62 09/30/2008 (733698)
 63 10/03/2008 (733697)
 64 10/20/2008 (733699)
 65 03/13/2009 (736888)
 66 03/16/2009 (706994)

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

Date: **07/31/2007** (606029) **CN600129183**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2007** (606030) **CN600129183**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **01/18/2008** (635976) **CN600129183**
 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

Date: **01/31/2008** (677909) **CN600129183**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **02/29/2008** (718461) **CN600129183**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **06/30/2008** (718463) **CN600129183**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2008** (718464) CN600129183
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **08/25/2008** (595563) CN600129183
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Conditions, No. 8 PERMIT
Special Terms and Conditions, No. 11 OP
Description: Failure to control emissions of VOC on unit B-5.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Conditions, No. 8 PERMIT
Special Terms and Conditions, No. 11 OP
Description: Failure to control emissions of PM on unit B-5.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Conditions, No. 4 PERMIT
Special Terms and Conditions, No. 11 OP
Description: Failure to restrict use to two spray guns during painting operations on unit B-5.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Description: Failure to submit accurate deviation reports.

Date: **08/31/2008** (733697) CN600129183
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

- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS BARGE & BOAT, INC.
RN102037959

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0433-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Barge & Boat, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a barge cleaning and marine vessel repair facility with a wastewater treatment system located approximately 2.5 miles south of the intersection of State Highway 288 and County Road 242A in Brazoria County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 18, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Nine Hundred Seventy Dollars (\$5,970) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Seven Hundred Seventy-Six Dollars

(\$4,776) of the administrative penalty and One Thousand One Hundred Ninety-Four Dollars (\$1,194) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004696000, Effluent Limitations and Monitoring Requirements No. 1 at Outfall 004, as documented by a TCEQ record review conducted on February 26, 2009, and as shown in the following table:

EFFLUENT PARAMETER			
Permit Limit			
	Total Suspended Solids Daily Maximum Concentration 100 Milligrams per Liter	Oil and Grease Daily Maximum Concentration 15 Milligrams per Liter	Total Organic Carbon Daily Maximum Concentration 150 Milligrams per Liter
Month/Year			
Jan-08	112	24	1480
Feb-08	c	54	c
Jun-08	114	c	c
Jul-08	910	c	c
Aug-08	156	c	c

c - compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Barge & Boat, Inc., Docket No. 2009-0433-IWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0004696000, 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 limits. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

5/20/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

4-20-09
Date

Mickey W. TINER
Name (Printed or typed)
Authorized Representative of
Texas Barge & Boat, Inc.

President/CEO
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

