

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1712-WQ-E **TCEQ ID:** RN101269611 **CASE NO.:** 36732

RESPONDENT NAME: Value Family Properties - Denton, L.P.

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: VFP Denton, 5301 East McKinney Street, Denton, Denton County, with a manhole at Unit 115</p> <p>TYPE OF OPERATION: Wastewater collection 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 April 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Joe Wallis, Director of Operations for Texas, Value Family Properties - Denton, L.P., 8516 East 101st Street, Suite F, Tulsa, Oklahoma 74133 Mr. David P. Stewart, President, Value Family Properties – Denton, L.P., 8516 East 101st Street, Suite F, Tulsa, Oklahoma 74133 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 26, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 24, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the investigation conducted on August 26, 2008, the investigator documented that an unauthorized discharge of wastewater had occurred on August 23, 2008 from the manhole at unit 115. Approximately 72,000 gallons of wastewater was discharged to a storm drainage system which leads to an unnamed tributary of Cooper Creek [TEX. WATER CODE § 26.121].</p> <p>2) Failure to provide non-compliance notification to the TCEQ within 24 hours of becoming aware of the non-compliance. Specifically, the unauthorized discharge of wastewater that occurred on August 23, 2008 was never reported to the TCEQ [TEX. WATER CODE § 26.039(b)].</p> <p>3) Failure to equip the lift station with an audio-visual alarm system which is telemetered to a facility where 24 hour attendance is available [30 TEX. ADMIN. CODE § 317.3(e)(5)].</p>	<p>Total Assessed: \$5,650</p> <p>Total Deferred: \$1,130 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$0 The Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code. (remaining \$4,520 due pending outcome of bankruptcy proceedings)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent repaired the pump at the lift station which was the root cause of the unauthorized discharge of wastewater, removed and properly disposed of the contaminated soil, and chemically treated the unauthorized discharge on August 28, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all reporting/notification requirements are properly accomplished;</p> <p>b) Within 30 days after the effective date of this Agreed Order, equip the lift station with an audio-visual alarm system that transmits all alarm conditions through the use of an auto-dialer system, Supervisory Control and Data Acquisition system, or telemetering system connected to a continuously monitored location; and</p> <p>c) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): Utilities Registration S0021



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	27-Oct-2008	Screening	28-Oct-2008	EPA Due	
	PCW	29-Oct-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Value Family Properties - Denton, L.P.		
Reg. Ent. Ref. No.	RN101269611		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36732	No. of Violations	3
Docket No.	2008-1712-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	35.0% Enhancement	Subtotals 2, 3, & 7	\$1,575
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Notes: The Respondent was issued one Findings Order. The penalty was also enhanced due to Poor Performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$383
 Approx. Cost of Compliance: \$11,200
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,450
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OTHER FACTORS AS JUSTICE MAY REQUIRE	3.7%	Adjustment	\$200
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Upward adjustment to capture the avoided cost associated with violation No. 2.

Final Penalty Amount	\$5,650
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,650
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,130
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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	\$4,520
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Screening Date 28-Oct-2008

Docket No. 2008-1712-WQ-E

PCW

Respondent Value Family Properties - Denton, L.P.

Policy Revision 2 (September 2002)

Case ID No. 36732

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101269611

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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%

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) 25%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> **Compliance History Summary**

Compliance History Notes

The Respondent was issued one Findings Order. The penalty was also enhanced due to Poor Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date 28-Oct-2008	Docket No. 2008-1712-WQ-E	PCW																			
Respondent Value Family Properties - Denton, L.P.		<i>Policy Revision 2 (September 2002)</i>																			
Case ID No. 36732		<i>PCW Revision June 12, 2008</i>																			
Reg. Ent. Reference No. RN101269611																					
Media [Statute] Water Quality																					
Enf. Coordinator Jorge Ibarra, P.E.																					
Violation Number	1																				
Rule Cite(s)	Tex. Water Code § 26.121																				
Violation Description	Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the investigation conducted on August 26, 2008, the investigator documented that an unauthorized discharge of wastewater had occurred on August 23, 2008 from the manhole at unit 115. Approximately 72,000 gallons of wastewater was discharged to a storm drainage system which leads to an unnamed tributary of Cooper Creek.																				
	Base Penalty	\$10,000																			
>> Environmental, Property and Human Health Matrix																					
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 style="text-align: center;">x</td> <td></td> <td rowspan="2" style="text-align: right;">Percent 25%</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual		x		Percent 25%	Potential				
		Harm																			
Release	Major	Moderate	Minor																		
Actual		x		Percent 25%																	
Potential																					
>> Programmatic Matrix																					
	<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 style="text-align: right;">Percent 0%</td> </tr> </table>		Falsification	Major	Moderate	Minor							Percent 0%								
	Falsification	Major	Moderate	Minor																	
					Percent 0%																
Matrix Notes	Failure to prevent the unauthorized discharge of wastewater resulted in the release of significant amounts of pollutants as a result of this violation.																				
	Adjustment	\$7,500																			
		\$2,500																			
Violation Events																					
	Number of Violation Events	1																			
		Number of violation days																			
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td>daily</td> <td></td> </tr> <tr> <td></td> <td>monthly</td> <td style="text-align: center;">x</td> </tr> <tr> <td></td> <td>quarterly</td> <td></td> </tr> <tr> <td></td> <td>semiannual</td> <td></td> </tr> <tr> <td></td> <td>annual</td> <td></td> </tr> <tr> <td></td> <td>single event</td> <td></td> </tr> </table>		daily			monthly	x		quarterly			semiannual			annual			single event		Violation Base Penalty	
	daily																				
	monthly	x																			
	quarterly																				
	semiannual																				
	annual																				
	single event																				
<i>mark only one with an x</i>			\$2,500																		
	One monthly event is recommended based on the date of the unauthorized discharge, August 23, 2008, to the compliance date of August 28, 2008.																				
Good Faith Efforts to Comply																					
	25.0% Reduction	\$625																			
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDPRP/Settlement Offer</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td>N/A</td> <td></td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary	x		N/A		(mark with x)								
	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary																					
Ordinary	x																				
N/A		(mark with x)																			
Notes	The Respondent achieved compliance on August 28, 2008 for this violation.																				
	Violation Subtotal	\$1,875																			
Economic Benefit (EB) for this violation																					
	Estimated EB Amount	\$5																			
Statutory Limit Test																					
	Violation Final Penalty Total	\$2,851																			
	This violation Final Assessed Penalty (adjusted for limits)	\$2,851																			

Economic Benefit Worksheet

Respondent: Value Family Properties - Denton, L.P.
Case ID No.: 36732
Reg. Ent. Reference No.: RN101269611
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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	\$4,000	23-Aug-2008	28-Aug-2008	0.01	\$3	n/a	\$3
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$4,000	23-Aug-2008	28-Aug-2008	0.01	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to repair the pump at the lift station which was the root cause of the unauthorized discharge of wastewater, to remove and properly dispose the contaminated soil, and to chemically treat the unauthorized discharge. Date Required is the date of the unauthorized discharge. Final Date is the compliance date.

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

\$8,000

TOTAL

\$5

Screening Date 28-Oct-2008	Docket No. 2008-1712-WQ-E	PCW		
Respondent Value Family Properties - Denton, L.P.		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36732		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN101269611				
Media [Statute] Water Quality				
Enf. Coordinator Jorge Ibarra, P.E.				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	Tex. Water Code § 26.039(b)			
Violation Description	Failed to provide non-compliance notification to the TCEQ within 24 hours of becoming aware of the non-compliance. Specifically, the unauthorized discharge of wastewater that occurred on August 23, 2008 was never reported to the TCEQ.			
	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"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix				
	Falsification	Major Moderate Minor		
	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.			
	Adjustment	<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="1"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
	One single event is recommended.			
Good Faith Efforts to Comply				
	0.0%	Reduction	<input type="text" value="\$0"/>	
	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	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	<input type="text" value="\$1,000"/>		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$200"/>	Violation Final Penalty Total	<input type="text" value="\$1,400"/>	
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,400"/>	

Economic Benefit Worksheet

Respondent Value Family Properties - Denton, L.P.
Case ID No. 36732
Reg. Ent. Reference No. RN101269611
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$200	23-Aug-2008	24-Aug-2008	0.00	\$0	\$200	\$200

Notes for AVOIDED costs

Estimated avoided cost for not reporting within 24 hours of the unauthorized discharge. Date Required is the day of the unauthorized discharge, Final Date was the required compliance date.

Approx. Cost of Compliance

\$200

TOTAL

\$200

Screening Date 28-Oct-2008		Docket No. 2008-1712-WQ-E		PCW
Respondent Value Family Properties - Denton, L.P.				<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36732				<small>PCW Revision June 12, 2008</small>
Reg. Ent. Reference No. RN101269611				
Media [Statute] Water Quality				
Enf. Coordinator Jorge Ibarra, P.E.				
Violation Number	<input type="text" value="3"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 317.3(e)(5)"/>			
Violation Description	<input type="text" value="Failed to equip the lift station with an audio-visual alarm system which is telemetered to a facility where 24 hour attendance is available."/>			
Base Penalty				<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Failure to provide an audio-visual alarm system at the lift station will or could expose human health or the environment to significant amounts of pollutants 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="1"/>	Number of violation days	
		<input type="text" value="63"/>		
<small>mark only one with an x</small>	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"/>		
Violation Base Penalty		<input type="text" value="\$1,000"/>		
<input type="text" value="One quarterly event is recommended. The penalty was calculated from the investigation date of August 26, 2008 to the screening date of October 28, 2008."/>				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>
		<small>Before NOV NOV to EDRP/ Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$1,000"/>
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$178"/>	Violation Final Penalty Total	<input type="text" value="\$1,400"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$1,400"/>

Economic Benefit Worksheet

Respondent Value Family Properties - Denton, L.P.
Case ID No. 36732
Reg. Ent. Reference No. RN101269611
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$3,000	26-Aug-2008	1-Jul-2009	0.85	\$8	\$169	\$178
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 Estimated cost to provide the required audio-visual alarm system at the lift station. Date Required is the investigation date, Final Date is the expected compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$3,000	TOTAL	\$178
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603113184 Value Family Properties - Denton, L.P. Classification: POOR Rating: 110.00
Regulated Entity: RN101269611 VFP DENTON Classification: POOR Site Rating:
ID Number(s): UTILITIES REGISTRATION S0021
Location: 5301 E MCKINNEY ST, DENTON, TX, 76208 (discharged from the manhole at unit 115) Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: November 10, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 10, 2003 to November 10, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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? Yes
3. If Yes, who is the current owner? Value Family Properties - Denton, L.P.
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.

Effective Date: 08/29/2008

ADMINORDER 2007-2043-WQ-E

Classification: Major

Citation: TWC Chapter 26 26.121

Description: Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, a series of unauthorized discharges occurred during October 25 through 30, 2007 from the manhole near unit 115, totalling 5,000 gallons of wastewater, resulting in approximately 30 fish killed.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)

Description: Failed to provide non-compliance notification to the TCEQ within 24 hours of becoming aware of the non-compliance. Specifically, the unauthorized discharges began on October 25, 2007 and were not reported to the TCEQ until October 31, 2007.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(b)(3)

Description: Failed to properly maintain the collection system. Specifically, there were no provisions made to prevent grease and other floating materials from interfering with the operation of the lift station.

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1 12/10/2007 (599703)

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

N/A

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
VALUE FAMILY PROPERTIES -
DENTON, L.P.
RN101269611

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1712-WQ-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 Value Family Properties - Denton, L.P. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater collection system located at 5301 East McKinney Street in Denton, Denton County, Texas (the "Facility"). The Respondent had an unauthorized discharge from the manhole at unit 115 (the "Site").
2. The Respondent has discharged sewage 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 October 29, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Six Hundred Fifty Dollars (\$5,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). On or about December 2, 2008, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code ("USC"). The Automatic Stay imposed by the Bankruptcy

Code [specifically, 11 USC § 362(a)] does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations. So long as the Debtor's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where the Debtor's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General. One Thousand One Hundred Thirty Dollars (\$1,130) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. Any 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 upon approval by the bankruptcy court.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent repaired the pump at the lift station which was the root cause of the unauthorized discharge of wastewater, removed and properly disposed the contaminated soil, and chemically treated the unauthorized discharge on August 28, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of wastewater from the collection system, in violation of TEX. WATER CODE § 26.121, as documented during an investigation conducted on August 26, 2008. Specifically, during the investigation, the investigator documented that an unauthorized discharge of wastewater had occurred on August 23, 2008 from the Site. Approximately 72,000 gallons of wastewater was discharged to a storm drainage system which leads to an unnamed tributary of Cooper Creek.

2. Failed to provide non-compliance notification to the TCEQ within 24 hours of becoming aware of the non-compliance, in violation of TEX. WATER CODE § 26.039(b), as documented during an investigation conducted on August 26, 2008. Specifically, the unauthorized discharge of wastewater that occurred on August 23, 2008 was never reported to the TCEQ.
3. Failed to equip the lift station with an audio-visual alarm system which is telemetered to a facility where 24 hour attendance is available, in violation of 30 TEX. ADMIN. CODE § 317.3(e)(5) as documented during an investigation conducted on August 26, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent be assessed 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 may be made payable to "TCEQ" and shall be sent with the notation "Re: Value Family Properties - Denton, L.P., Docket No. 2008-1712-WQ-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all reporting/notification requirements are properly accomplished, in accordance with TEX. WATER CODE § 26.039(b);
 - b. Within 30 days after the effective date of this Agreed Order, equip the lift station with an audio-visual alarm system that transmits all alarm conditions through the use of an auto-dialer system, Supervisory Control and Data Acquisition system, or telemetering system connected to a continuously monitored location; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. and 2.b. 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC-149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
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.

Value Family Properties - Denton, L.P.
DOCKET NO. 2008-1712-WQ-F
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

6/17/2009
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]
Signature

6/15/09
Date

DAVID P. STEWART
Name (Printed or typed)
Authorized Representative of
Value Family Properties - Denton, L.P.

Pres.
Title

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