

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0367-MWD-E **TCEQ ID:** RN102335825 **CASE NO.:** 37309
RESPONDENT NAME: WHITE OAK UTILITIES, 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: WHITE OAK UTILITIES, located approximately 450 feet north of Farm-to-Market Road 1488, and approximately 1,100 feet east of the Montgomery/Waller County line, Montgomery County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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 August 10, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jerry A. Hayley, Vice President, WHITE OAK UTILITIES, INC., 19221 Interstate 45 South, Suite 370, Conroe, Texas 77385 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: January 7, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 5, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for ammonia nitrogen and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14133001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$8,010</p> <p>Total Deferred: \$1,602 <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: \$6,408</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By February 14, 2009, conducted an engineering study to determine the cause of non-compliance; and</p> <p>b. On March 16, 2009, purchased and installed a specialized flow meter to evaluate the daily peak flow patterns.</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. 14133001, 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. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0014133001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	9-Mar-2009			
	PCW	13-Mar-2009	Screening	13-Mar-2009	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	WHITE OAK UTILITIES, INC.		
Reg. Ent. Ref. No.	RN102335825		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37309	No. of Violations	1
Docket No.	2009-0367-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jennifer Graves
		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)	<i>Subtotal 1</i>	\$3,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	175.0% Enhancement	<i>Subtotals 2, 3, & 7</i> \$5,250
Notes	Enhancement due to 30 monthly self-reported effluent violations, one NOV with same or similar violations, and one final enforcement order containing a denial of liability.	
Culpability	No 0.0% Enhancement	<i>Subtotal 4</i> \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i> \$0
Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i> \$0
Total EB Amounts	\$767	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$8,988	
SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$8,250
OTHER FACTORS AS JUSTICE MAY REQUIRE	-2.9%	<i>Adjustment</i> -\$240
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes	Recommend reduction so that monthly self-reported effluent violations do not overly-impact the penalty amount and to prevent double-enhancement for violations that were self-reported.	
	<i>Final Penalty Amount</i>	\$8,010
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i> \$8,010
DEFERRAL	20.0% Reduction	<i>Adjustment</i> -\$1,602
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		\$6,408

Screening Date 13-Mar-2009 **Docket No.** 2009-0367-MWD-E
Respondent WHITE OAK UTILITIES, INC.
Case ID No. 37309
Reg. Ent. Reference No. RN102335825
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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)	31	155%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 175%

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary
Compliance History Notes

Enhancement due to 30 monthly self-reported effluent violations, one NOV with same or similar violations, and one final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 175%

Screening Date 13-Mar-2009	Docket No. 2009-0367-MWD-E	PCW
Respondent WHITE OAK UTILITIES, INC.	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 37309	<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN102335825		
Media [Statute] Water Quality		
Enf. Coordinator Jennifer Graves		
Violation Number 1		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14133001, Effluent Limitations and Monitoring Requirements No. 1	
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review on January 7, 2009, and shown in the attached effluent table.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="10%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of these discharges, 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.

Adjustment

Violation Events

Number of Violation Events <input type="text" value="3"/>	<input type="text" value="183"/>	Number of violation days
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<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty

Three quarterly events are recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
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 <input type="text" value="\$767"/>	Violation Final Penalty Total <input type="text" value="\$8,010"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$8,010"/>	

Economic Benefit Worksheet

Respondent WHITE OAK UTILITIES, INC.

Case ID No. 37309

Reg. Ent. Reference No. RN102335825

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

Equipment	\$5,323	29-Feb-2008	16-Mar-2009	1.04	\$19	\$370	\$389
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	29-Feb-2008	31-Dec-2009	1.84	\$15	\$306	\$322
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)	\$1,165	29-Feb-2008	14-Feb-2009	0.96	\$56	n/a	\$56

Notes for DELAYED costs

Actual cost of flow meter purchase, installation and start-up. Date required is the initial month of noncompliance. Final date is the date of installation (March 16, 2009). Estimated cost for the design, fabrication and installation of a weir box and piping. Date Required is the initial month of noncompliance. Final Date is the expected date of compliance (December 31, 2009). Actual cost to conduct an engineering study to determine the cause of non-compliance. Date required is the initial month of non-compliance. Final date is the end of the consultation period according to the invoice (February 14, 2009).

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	\$8,988	TOTAL	\$767
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EFFLUENT VIOLATION TABLE**WHITE OAK UTILITIES, INC.****TPDES Permit No. 14133001****Docket No. 2009-0367-MWD-E**

	NH₃-N Daily Avg. Conc.	NH₃-N Max. Single Grab	TSS Daily Avg. Conc.
Months	Limit = 3.0 mg/L	Limit = 15 mg/L	Limit = 15 mg/L
2/29/2008	6.28	c	26.32
3/31/2008	6.50	c	c
4/30/2008	6.28	c	c
5/31/2008	3.10	c	c
7/31/2008	11.89	29.0	c
8/31/2008	4.36	c	c

NH₃-N = ammonia nitrogen

avg. = average

TSS = total suspended solids

conc. = concentration

max. = maximum

c = compliant

mg/L = milligrams per Liter

Compliance History Report

Customer/Respondent/Owner-Operator: CN600889778 WHITE OAK UTILITIES, INC. Classification: AVERAGE Rating: 3.10
Regulated Entity: RN102335825 WHITE OAK UTILITIES Classification: AVERAGE Site Rating: 3.10

ID Number(s):	WASTEWATER	PERMIT	WQ0014133001
	WASTEWATER	PERMIT	TPDES0119857
	WASTEWATER	PERMIT	TX0119857
	WASTEWATER	PERMIT	TX0119857

Location: APPRX 450 FT N OF FM 1488, APPRX
1,100 FT E OF THE MONTGOMERY/
WALLER CO LINE IN MONTGOMERY
CO, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 24, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 10, 2004 to March 10, 2009

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

Name: Jennifer Graves Phone: 956-430-6023

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 07/13/2007

ADMINORDER 2006-1981-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits.

Classification: Moderate

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

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failed to submit the annual sludge report for the monitoring period ending July 31, 2005.

- 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	07/03/2006	(506481)
N/A	2	07/03/2006	(506482)
	3	07/03/2006	(506483)
	4	07/03/2006	(506484)
	5	07/03/2006	(506485)
	6	07/03/2006	(506486)
	7	07/03/2006	(506487)
	8	07/03/2006	(506488)
	9	07/03/2006	(506489)
	10	07/03/2006	(506490)
	11	07/03/2006	(506491)
	12	07/03/2006	(506492)
	13	07/03/2006	(506493)
	14	07/03/2006	(506494)
	15	07/03/2006	(506495)
	16	07/03/2006	(506496)
	17	07/03/2006	(506497)
	18	07/03/2006	(506498)
	19	07/03/2006	(506499)
	20	07/03/2006	(506500)
	21	07/03/2006	(506501)
	22	07/03/2006	(506502)
	23	07/03/2006	(506503)
	24	07/03/2006	(506504)
	25	07/03/2006	(506505)
	26	07/03/2006	(506506)
	27	07/03/2006	(506507)
	28	07/03/2006	(506508)
	29	07/03/2006	(506509)
	30	08/18/2006	(487555)
	31	11/08/2006	(631990)
	32	11/08/2006	(631992)
	33	11/08/2006	(631994)
	34	11/08/2006	(631996)
	35	11/10/2006	(515044)
	36	11/21/2006	(631998)
	37	12/21/2006	(534963)
	38	12/27/2006	(632000)
	39	01/12/2007	(536322)
	40	01/29/2007	(632002)
	41	03/20/2007	(631986)
	42	04/23/2007	(631987)
	43	06/21/2007	(631989)
	44	07/24/2007	(631991)
	45	08/06/2007	(631988)
	46	09/20/2007	(631995)
	47	10/22/2007	(631997)
	48	11/16/2007	(631999)
	49	12/19/2007	(631993)
	50	12/20/2007	(632001)
	51	01/23/2008	(677442)
	52	02/07/2008	(611195)
	53	02/25/2008	(677441)
	54	03/21/2008	(696179)

55 04/24/2008 (696180)
56 05/23/2008 (696181)
57 06/27/2008 (717827)
58 07/22/2008 (717828)
59 08/28/2008 (717829)
60 09/29/2008 (717830)
61 09/30/2008 (733146)
62 10/17/2008 (733147)
63 11/19/2008 (733148)
64 12/17/2008 (733149)
65 03/05/2009 (722969)

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

Date: 04/30/2004 (506490) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2004 (506497) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2004 (506500) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (506506) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (506508) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (506482) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (506484) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (506488) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 04/30/2005 (506491) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 05/31/2005 (506494) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 06/30/2005 (506496) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 07/31/2005 (506498) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 11/30/2005 (506507) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 12/31/2005 (506509) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 01/31/2006 (506483) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 03/31/2006 (506489) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 04/30/2006 (506492) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 05/31/2006 (506495) CN600889778
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 07/31/2006 (631992) CN600889778
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: 08/18/2006 (487555) CN600889778
Self Report? NO Classification: Moderate
Citation: 14133-001 PERMIT
30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)

Description: Failure to submit the 07/31/04 through 08/01/05 annual sludge report to the TCEQ in Austin and the Region 12 Office.

Self Report? NO Classification: Moderate
Citation: 14133-001 PERMIT
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to maintain compliance with the permitted effluent limits.

Self Report? NO Classification: Moderate
Citation: 14133-001 PERMIT
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to provide noncompliance notification, as required.

Date: 08/31/2006 (631994) CN600889778
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: 12/31/2006 (632002) CN600889778
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: 04/30/2007 (631988) CN600889778
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: 06/30/2007 (631991) CN600889778
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 (696179) CN600889778
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: 03/31/2008 (696180) CN600889778
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: 04/30/2008 (696181) CN600889778
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (717827) CN600889778
 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 (717829) CN600889778
 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: 08/31/2008 (717830) CN600889778
 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: 09/30/2008 (733147) CN600889778
 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
WHITE OAK UTILITIES, INC.
RN102335825

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0367-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding WHITE OAK UTILITIES, 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 a wastewater treatment plant located approximately 450 feet north of Farm-to-Market Road 1488, and approximately 1,100 feet east of the Montgomery/Waller County line in Montgomery County, Texas (the "Facility").
2. The Respondent has discharged municipal 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 10, 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 Eight Thousand Ten Dollars (\$8,010) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Four Hundred Eight Dollars (\$6,408) of the administrative

- penalty and One Thousand Six Hundred Two Dollars (\$1,602) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By February 14, 2009, conducted an engineering study to determine the cause of non-compliance; and
 - b. On March 16, 2009, purchased and installed a specialized flow meter to evaluate the daily peak flow patterns.
 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 of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14133001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on January 7, 2009, and shown in the following violation table:

EFFLUENT VIOLATION TABLE			
	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Max. Single Grab	TSS Daily Avg. Conc.
Months	Limit = 3.0 mg/L	Limit = 15 mg/L	Limit = 15 mg/L
2/29/2008	6.28	c	26.32
3/31/2008	6.50	c	c
4/30/2008	6.28	c	c
5/31/2008	3.10	c	c
7/31/2008	11.89	29.0	c
8/31/2008	4.36	c	c
NH ₃ -N = ammonia nitrogen		avg. = average	
TSS = total suspended solids		conc. = concentration	
max. = maximum		c = compliant	
mg/L = milligrams per Liter			

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: WHITE OAK UTILITIES, INC., Docket No. 2009-0367-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 14133001, 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. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

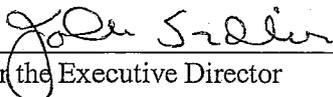
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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

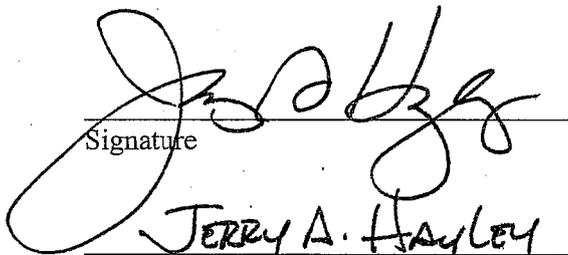
7/22/2009
Date

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
JERRY A. HAYLEY
Name (Printed or typed)
Authorized Representative of
WHITE OAK UTILITIES, INC.

6/3/2009
Date
Vice President
Title

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