

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0538-MWD-E **TCEQ ID:** RN103786737 **CASE NO.:** 37457

**RESPONDENT NAME:** Inverness Forest Improvement District

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Inverness Forest Improvement, located on the north side of Cypress Creek, approximately 800 feet east of Hardy Road bridge crossing Cypress Creek, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 24, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Chuck Sprague, Board President, Inverness Forest Improvement District, 1001 McKinney Street, Suite 1000, Houston, Texas 77002  Ms. Jewel DeBardelaben, President, Inverness Forest Improvement District, 1001 McKinney Street, Suite 1000, Houston, Texas 77002  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 19, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 3, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limitations for ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010783001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$4,050</p> <p><b>Total Deferred:</b> \$810  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,240</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010783001, 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 photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0010783001



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	6-Apr-2009	Screening	14-Apr-2009	EPA Due	
	PCW	14-Apr-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Inverness Forest Improvement District
Reg. Ent. Ref. No.	RN103786737
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37457	No. of Violations	1
Docket No.	2009-0538-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Evette Alvarado
		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** 35.0% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No  Enhancement Subtotal 4

Notes

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

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

Total EB Amounts	\$2,466
Approx. Cost of Compliance	\$30,665

\*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 

**PAYABLE PENALTY**

**Screening Date** 14-Apr-2009

**Docket No.** 2009-0538-MWD-E

**PCW**

**Respondent** Inverness Forest Improvement District

*Policy Revision 2 (September 2002)*

**Case ID No.** 37457

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN103786737

**Media [Statute]** Water Quality

**Enf. Coordinator** Evette Alvarado

### 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	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	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)** 35%

>> **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**

Enhancement recommended for seven self-reported effluent violations.

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

<b>Screening Date</b> 14-Apr-2009	<b>Docket No.</b> 2009-0538-MWD-E	<b>PCW</b>		
<b>Respondent</b> Inverness Forest Improvement District		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37457		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN103786737				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Evette Alvarado				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010783001, Effluent Limitations and Monitoring Requirements No. 1			
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as documented during a record review conducted on February 19, 2009, and shown in the attached table.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	X
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			<b>Percent</b> <input type="text" value="10%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	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. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.			
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>		
			<input type="text" value="\$1,000"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="3"/>	<b>Number of violation days</b> <input type="text" value="122"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	X		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
			<b>Violation Base Penalty</b> <input type="text" value="\$3,000"/>	
Three quarterly events are recommended.				
<b>Good Faith Efforts to Comply</b>			<input type="text" value="\$0"/>	
	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	X	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
	<b>Violation Subtotal</b>	<input type="text" value="\$3,000"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$2,466"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$4,050"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$4,050"/>	

## Economic Benefit Worksheet

**Respondent** Inverness Forest Improvement District  
**Case ID No.** 37457  
**Reg. Ent. Reference No.** RN103786737  
**Media** Water Quality  
**Violation No.** 1

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

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$30,665	31-May-2008	8-Jan-2010	1.61	\$2,466	n/a	\$2,466
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 repair leaks in air distribution lines between the blower units and the treatment Facility. Date required is the first month of excursions. Final date is the expected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
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**

<b>Approx. Cost of Compliance</b>	\$30,665	<b>TOTAL</b>	\$2,466
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Inverness Forest Improvement District; RN103786737  
TPDES Permit No. WQ0010783001  
Docket No. 2009-0538-MWD-E  
Case No. 37457

<b>EFFLUENT VIOLATION TABLE</b>	
<b>Months</b>	<b>Ammonia Nitrogen daily ave. conc.</b>
	<b>Limit = 3 mg/L</b>
<b>05/31/2008</b>	4.24
<b>09/30/2008</b>	3.56
<b>10/31/2008</b>	8.68
<b>11/30/2008</b>	3.65

ave. = average

conc. = concentration

mg/L = milligrams per  
Liter



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601245004	Inverness Forest Improvement District	Classification: AVERAGE	Rating: 1.59
Regulated Entity:	RN103786737	INVERNESS FOREST IMPROVEMENT	Classification: AVERAGE	Site Rating: 0.17
ID Number(s):	WASTEWATER	PERMIT		WQ0010783001
	WASTEWATER	EPA ID		TPDES0023612
	WASTEWATER	PERMIT		TPDES0023612
	WASTEWATER	PERMIT		TX0023612
Location:	North side of Cypress Creek, approx. 800 ft. east of Hardy Rd. bridge crossing Cypress Creek, Harris Co., Tx			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 13, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 13, 2004 to April 13, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Evette Alvarado</u>	Phone:	<u>239 - 2573</u>	

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/29/2004	(353786)
2	06/03/2004	(353787)
3	06/25/2004	(353788)
4	08/04/2004	(353789)
5	09/03/2004	(353790)
6	09/07/2004	(286188)
7	09/28/2004	(353791)
8	10/29/2004	(382800)
9	11/29/2004	(382801)
10	12/20/2004	(382802)
11	01/24/2005	(382803)
12	02/25/2005	(420608)
13	03/31/2005	(382799)
14	05/03/2005	(420609)
15	05/26/2005	(420610)
16	06/28/2005	(420611)
17	08/30/2005	(441623)
18	09/19/2005	(441624)
19	10/25/2005	(470016)
20	10/25/2005	(470017)
21	11/22/2005	(470018)
22	01/03/2006	(470019)
23	01/27/2006	(470020)
24	03/03/2006	(470015)
25	04/03/2006	(499180)
26	05/02/2006	(499181)
27	06/21/2006	(499182)
28	08/30/2006	(488178)
29	09/29/2006	(521220)
30	09/29/2006	(521221)
31	03/09/2007	(577521)
32	03/09/2007	(577522)

33	03/09/2007	(577523)
34	06/01/2007	(577520)
35	06/20/2007	(577517)
36	06/20/2007	(577518)
37	06/20/2007	(577519)
38	06/20/2007	(577524)
39	06/20/2007	(577525)
40	07/11/2007	(602218)
41	08/23/2007	(602219)
42	08/29/2007	(602220)
43	09/24/2007	(602221)
44	10/10/2007	(602222)
45	11/07/2007	(620379)
46	04/06/2008	(672683)
47	04/06/2008	(672684)
48	07/24/2008	(690693)
49	07/24/2008	(690694)
50	07/24/2008	(690695)
51	07/24/2008	(690696)
52	07/24/2008	(690697)
53	07/24/2008	(690698)
54	08/13/2008	(711542)
55	09/10/2008	(711543)
56	10/20/2008	(711544)
57	11/20/2008	(728059)
58	01/16/2009	(728060)
59	04/03/2009	(736132)

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

Date:	01/31/2005	(420608)	CN601245004	
	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	(382799)	CN601245004	
	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:	05/31/2008	(690697)	CN601245004	
	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	(711544)	CN601245004	
Self	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:	10/31/2008	(728059)	CN601245004	
Self	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2008	(728059)	CN601245004	
Self	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:	12/31/2008	(728060)	CN601245004	
Self	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  
INVERNESS FOREST  
IMPROVEMENT DISTRICT  
RN103786737

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0538-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 Inverness Forest Improvement District ("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 facility located on the north side of Cypress Creek, approximately 800 feet east of Hardy Road bridge crossing Cypress Creek in Harris 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 April 8, 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 Four Thousand Fifty Dollars (\$4,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The

Respondent has paid Three Thousand Two Hundred Forty Dollars (\$3,240) of the administrative penalty and Eight Hundred Ten Dollars (\$810) 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 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. WQ0010783001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on February 19, 2009, and shown in the following table:

EFFLUENT VIOLATION TABLE	
Months	Ammonia Nitrogen daily average Limit = 3 mg/L
05/31/2008	4.24
09/30/2008	3.56
10/31/2008	8.68
11/30/2008	3.65

ave. = average    conc. = concentration

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: Inverness Forest Improvement District, Docket No. 2009-0538-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010783001, 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 photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 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

John S. Rollier  
For the Executive Director

7/27/2009  
\_\_\_\_\_  
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.

Jewel DeBardelaben  
Signature

5-19-09  
\_\_\_\_\_  
Date

Jewel DeBardelaben  
Name (Printed or typed)  
Authorized Representative of  
Inverness Forest Improvement District

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.

