

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0359-MLM-E TCEQ ID: RN102180411 CASE NO.: 37289

RESPONDENT NAME: H.H.J., 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 checked="" type="checkbox"/> AIR	<input checked="" 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: Decker Oaks, located on the northeast side of State Highway 249 and on the east side of Cripple Creek Drive, approximately 0.8 mile north of the intersection of State Highway 249 and Stagecoach Road, and approximately 2.7 miles southeast of the intersection of Farm-to-Market Roads 149 and 1774, and approximately 4.0 miles northwest of the City of Tomball, Montgomery County</p> <p>TYPE OF OPERATION: Wastewater treatment facility associated with a collection system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on February 2, 2009, alleging nuisance odors and a complaint was also received on March 9, 2009, alleging an overflowing manhole and associated discharge. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: Complaints were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 16, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: 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 Respondent: Mr. Robert R. Weedn, President, H.H.J., INC., 617 West Main, Tomball, Texas 77375 Respondent's Attorney: Mr. David Smith, Barrett & Smith PLLC, 206 East 9th Street, Suite 1750, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" 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: February 2 and March 9, 2009</p> <p>Date of Investigation Relating to this Case: December 30, 2008, February 2, 2009, and March 10, 2009</p> <p>Date of NOV/NOE Relating to this Case: February 23 and April 20, 2009 (NOE)</p> <p>Background Facts: These were complaint and routine investigations.</p> <p>AIR/WATER</p> <p>1) Failure to submit sufficient evidence of legal restrictions prohibiting residential structures within that part of the 150 foot buffer zone not owned by the Respondent [30 TEX. ADMIN. CODE § 309.13(e)(3) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013863001, Other Requirements No. 4].</p> <p>2) Failure to obtain authorization to discharge prior to beginning construction of a treatment facility. Specifically, the Respondent had begun construction activities for a pending industrial permit before the permit was issued [TEX. WATER CODE § 26.027(c)].</p> <p>3) Failure to prevent nuisance odor conditions. Specifically, the investigator documented light to moderate odors of a highly offensive nature, for a period of about 30 minutes [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].</p> <p>4) Failure to prevent the discharge of untreated wastewater from the Plant's collection system. Specifically, a discharge of untreated wastewater occurred from a manhole located in the 300 block of Morris Road from March 7 to March 8, 2009 [TEX. WATER CODE § 26.121(a)(1),</p>	<p>Total Assessed: \$11,510</p> <p>Total Deferred: \$2,302 <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: \$2,208 (remaining \$7,000 due in 5 monthly payments of \$1,400 each)</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 Plant:</p> <p>a. By March 10, 2009, repaired a float switch on a lift station and cleaned and disinfected the area affected by the discharge; and</p> <p>b. By May 27, 2009, submitted evidence of legal restrictions prohibiting residential structures within that portion of the buffer zone not owned by the Respondent.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease all construction activities related to the industrial treatment Plant until authorization to discharge is granted by the TCEQ;</p> <p>b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a;</p> <p>c. Within 30 days after the effective date of this Agreed Order, implement procedures and conduct training to ensure that unauthorized discharges are reported to the TCEQ either orally or by facsimile within 24 hours of becoming aware of the discharge;</p> <p>d. Within 30 days after the effective date of this Agreed Order, submit, for review and approval, a plan that describes procedures designed to mitigate odors from the Plant;</p> <p>e. Respond to requests for additional information within 30 days of such requests;</p> <p>f. Implement the procedures described in the odor mitigation plan within 30 days of the plan's approval; and</p> <p>g. Within 45 days after the effective date</p>

<p>30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013863001, Permit Conditions No. 2.g].</p> <p>5) Failure to submit a noncompliance notification for an unauthorized discharge. Specifically, the unauthorized discharge that occurred from March 7 to 8, 2009, was not reported to the TCEQ either orally or by facsimile transmission within 24 hours of the Respondent becoming aware of the discharge [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0013863001, Monitoring and Reporting Requirements No. 7].</p>		<p>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 c. through f.</p>
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Additional ID No(s): WQ0013863001, TX0115827



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	2-Mar-2009	Screening	12-Mar-2009	EPA Due	
	PCW	31-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	H.H.J., INC.
Reg. Ent. Ref. No.	RN102180411
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37289	No. of Violations	3
Docket No.	2009-0359-MLM-E	Order Type	1880
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Air	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	\$4,000
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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	77.0% Enhancement	Subtotals 2, 3, & 7	\$3,080
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Notes: Enhancement recommended for one court order without denial, two NOV's with violations not same or similar as those in the current action, and 19 self-reported effluent violations.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$116
Approx. Cost of Compliance \$3,100
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,080
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$7,080
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,080
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,416
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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	\$5,664
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Screening Date 12-Mar-2009

Docket No. 2009-0359-MLM-E

PCW

Respondent H.H.J., INC.

Policy Revision 2 (September 2002)

Case ID No. 37289

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102180411

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>	0	0%
	Other written NOVs	21	42%
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	1	35%
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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement recommended for one court order without denial, two NOVs with violations not same or similar as those in the current action, and 19 self-reported effluent violations.

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

Screening Date 12-Mar-2009 Respondent H.H.J., INC. Case ID No. 37289 Reg. Ent. Reference No. RN102180411 Media [Statute] Water Quality Enf. Coordinator Evette Alvarado Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 309.13(e)(3) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013863001, Other Requirements No. 4 Violation Description Failed to submit sufficient evidence of legal restrictions prohibiting residential structures within that part of the 150-foot buffer zone not owned by the Respondent, as documented during an investigation on February 2, 2009.	Docket No. 2009-0359-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i>																								
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Notes	The Respondent does not meet the good faith criteria for this violation.																								
Violation Subtotal \$1,000																									
Economic Benefit (EB) for this violation																									
Estimated EB Amount \$2	Statutory Limit Test																								
Violation Final Penalty Total \$1,770																									
This violation Final Assessed Penalty (adjusted for limits) \$1,770																									

Economic Benefit Worksheet

Respondent H.H.J., INC.
Case ID No. 37289
Reg. Ent. Reference No. RN102180411
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	2-Feb-2009	27-May-2009	0.31	\$0	\$2	\$2
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 submit sufficient evidence of legal restrictions prohibiting residential structures within the portion of the buffer zone not owned by the Respondent. The date required is the investigation date. The final date is the date documentation was submitted.

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

\$100

TOTAL

\$2

<p>Screening Date 12-Mar-2009 Respondent H.H.J., INC. Case ID No. 37289 Reg. Ent. Reference No. RN102180411 Media [Statute] Water Quality Enf. Coordinator Evette Alvarado Violation Number <input type="text" value="2"/> Rule Cite(s) <input type="text" value="Tex. Water Code § 26.027(c)"/></p>	<p>Docket No. 2009-0359-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2009</i></p>																								
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	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	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>																								
<p>Violation Subtotal <input type="text" value="\$2,000"/></p>																									
<p>Economic Benefit (EB) for this violation <input type="text" value="\$60"/></p>																									
<p>Statutory Limit Test</p> <p>Violation Final Penalty Total <input type="text" value="\$3,540"/></p>																									
<p>This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,540"/></p>																									

Economic Benefit Worksheet

Respondent H.H.J., INC.
Case ID No. 37289
Reg. Ent. Reference No. RN102180411
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	\$2,000	2-Feb-2009	8-Sep-2009	0.80	\$60	n/a	\$60
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs associated with obtaining authorization. Date required is the date the construction activities were noted. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$60

Screening Date 12-Mar-2009 Respondent H.H.J., INC. Case ID No. 37289 Reg. Ent. Reference No. RN102180411 Media [Statute] Water Quality Enf. Coordinator Evette Alvarado Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)	Docket No. 2009-0359-MLM-E <div style="text-align: right;"> PCW Policy Revision 2 (September 2002) PCW Revision October 30, 2009 </div>
Violation Description Failed to prevent nuisance odor conditions, as documented during an investigation on December 30, 2008. Specifically, the investigator documented light to moderate odors of a highly offensive nature, for a period of about 30 minutes.	
Base Penalty \$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Actual				x
	Potential				
				Percent 10%	

>> Programmatic Matrix

	Major	Moderate	Minor	
Falsification				Percent 0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the investigation on December 30, 2008.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
	Extraordinary	
	Ordinary	
N/A	x	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$54

Statutory Limit Test

Violation Final Penalty Total \$1,770

This violation Final Assessed Penalty (adjusted for limits) \$1,770

Economic Benefit Worksheet

Respondent H.H.J., INC.
Case ID No. 37289
Reg. Ent. Reference No. RN102180411
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	30-Dec-2008	8-Oct-2009	0.77	\$3	\$52	\$54
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 of implementing procedures or modifications to the Plant to mitigate off-property nuisance odors.
 Date required is the date of the investigation. 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

\$1,000

TOTAL

\$54



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	20-Apr-2009	Screening	24-Apr-2009	EPA Due	
	PCW	4-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	H.H.J., INC.		
Reg. Ent. Ref. No.	RN102180411		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37289	No. of Violations	2
Docket No.	2009-0359-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
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 Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 24-Apr-2009

Docket No. 2009-0359-MLM-E

PCW

Respondent H.H.J., INC.

Policy Revision 2 (September 2002)

Case ID No. 37289

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102180411

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 (number of NOVs meeting criteria)	19	95%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	1	35%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 134%

>> 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 one court order without denial, two NOVs with violations not same or similar as those in the current action, and 19 self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 134%

Screening Date 24-Apr-2009 **Docket No.** 2009-0359-MLM-E **PCW**
Respondent H.H.J., INC. *Policy Revision 2 (September 2002)*
Case ID No. 37289 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102180411
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado
Violation Number 1
Rule Cite(s) Tex. Water Code 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013863001, Permit Conditions No. 2.g
Violation Description Failed to prevent the unauthorized discharge of untreated wastewater from the Plant's collection system, as documented during an investigation conducted on March 10, 2009. Specifically, a discharge of untreated wastewater occurred from a manhole located in the 300 block of Morris Road from March 7 to March 8, 2009.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes: Human health or the environment has been exposed to insignificant levels of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 3

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the date the discharge began (March 7, 2009) to the date of compliance (March 10, 2009).

Good Faith Efforts to Comply

25.0% Reduction \$250

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

Notes: The Respondent repaired a lift station switch, and cleaned and disinfected the affected area by March 10, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$2,090

This violation Final Assessed Penalty (adjusted for limits) \$2,090

Economic Benefit Worksheet

Respondent H.H.J., INC.
Case ID No. 37289
Reg. Ent. Reference No. RN102180411
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$800	7-Mar-2009	10-Mar-2009	0.01	\$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	\$400	7-Mar-2009	10-Mar-2009	0.01	\$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 a lift station switch, and clean and disinfect the area around the affected manhole. Date required is the date the discharge began. Final date is the date by which repairs and cleanup were completed.

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

\$1,200

TOTAL

\$1

<p>Screening Date 24-Apr-2009 Respondent H.H.J., INC. Case ID No. 37289 Reg. Ent. Reference No. RN102180411 Media [Statute] Water Quality Enf. Coordinator Evette Alvarado Violation Number 2 Rule Cite(s) 30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0013863001, Monitoring and Reporting Requirements No. 7</p>	<p>Docket No. 2009-0359-MLM-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></p>																								
<p>Violation Description Failed to submit a noncompliance notification for an unauthorized discharge, as documented during an investigation conducted on March 10, 2009. Specifically, the unauthorized discharge that occurred from March 7 to 8, 2009, was not reported to the TCEQ either orally or by facsimile transmission within 24 hours of the Respondent becoming aware of the discharge.</p>																									
<p>Base Penalty \$10,000</p>																									
<p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td colspan="2"></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td rowspan="2" style="vertical-align: middle;">OR</td> <td style="text-align: center;">Release Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>				Harm						Major	Moderate	Minor		OR	Release Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
		Harm																							
		Major	Moderate	Minor																					
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		Major	Moderate	Minor																					
		Falsification	Major	Moderate	Minor																				
		<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>																				
					Percent <input type="text" value="10%"/>																				
<p>Matrix Notes 100% of the rule requirement was not met.</p>																									
<p>Adjustment \$9,000</p>																									
<p>Violation Base Penalty \$1,000</p>																									
<p>Violation Events</p> <p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="60"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="6" style="vertical-align: middle; text-align: center;"><i>mark only one with an x</i></td> <td style="text-align: center;">daily</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">single event</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table> <p style="text-align: right;">Violation Base Penalty <input type="text" value="\$1,000"/></p> <p style="text-align: center; border: 1px solid black; padding: 5px;">One single event is recommended.</p>		<i>mark only one with an x</i>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>		single event	<input checked="" type="checkbox"/>								
<i>mark only one with an x</i>	daily		<input type="text"/>																						
	weekly		<input type="text"/>																						
	monthly		<input type="text"/>																						
	quarterly		<input type="text"/>																						
	semiannual		<input type="text"/>																						
	annual	<input type="text"/>																							
	single event	<input checked="" type="checkbox"/>																							
<p>Good Faith Efforts to Comply</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td style="text-align: center;">0.0% Reduction</td> <td></td> </tr> <tr> <td colspan="2"></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;">(mark with x)</td> <td></td> </tr> <tr> <td colspan="2">Notes</td> <td colspan="2" style="text-align: center;">The Respondent does not meet the good faith criteria for this violation.</td> </tr> </table> <p style="text-align: right;">Violation Subtotal <input type="text" value="\$1,000"/></p>				0.0% Reduction				Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>		Ordinary	<input type="text"/>	<input type="text"/>		N/A	<input checked="" type="checkbox"/>	(mark with x)		Notes		The Respondent does not meet the good faith criteria for this violation.	
		0.0% Reduction																							
		Before NOV	NOV to EDPRP/Settlement Offer																						
Extraordinary	<input type="text"/>	<input type="text"/>																							
Ordinary	<input type="text"/>	<input type="text"/>																							
N/A	<input checked="" type="checkbox"/>	(mark with x)																							
Notes		The Respondent does not meet the good faith criteria for this violation.																							
<p>Economic Benefit (EB) for this violation Statutory Limit Test</p> <p>Estimated EB Amount <input type="text" value="\$15"/> Violation Final Penalty Total <input type="text" value="\$2,340"/></p> <p style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,340"/></p>																									

Economic Benefit Worksheet

Respondent H.H.J., INC.
Case ID No. 37289
Reg. Ent. Reference No. RN102180411
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)	\$500	7-Mar-2009	8-Oct-2009	0.59	\$15	n/a	\$15

Notes for DELAYED costs: Estimated cost to implement procedures and conduct employee training to ensure that unauthorized discharges are properly reported to the TCEQ. Date required is the date the discharge began. Final date is the date of expected compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$500	TOTAL	\$15
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN601179344 H.H.J., Inc.	Classification: AVERAGE	Rating: 13.87
Regulated Entity:	RN102180411 DECKER OAKS	Classification: AVERAGE	Site Rating: 23.75
ID Number(s):	WASTEWATER PERMIT		TPDES0115827
	WASTEWATER PERMIT		TX0115827
	WASTEWATER PERMIT		WQ0004855000
Location:	Located on the NE side of SH 249 and on the E side of Cripple Creek Dr., app. 0.8 mi north of the intx of SH 249 and Stagecoach Rd, and app. 2.7 mi. SE of the Intx of FM 149 and 1774, app. 4.0 mi NW of City of Tomball, Montgomery Co., Tx		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	August 04, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 04, 2004 to August 04, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Evette Alvarado	Phone:	512 - 239 - 2573

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 judgments, and consent decrees of the state of Texas and the federal government.
- Effective Date: 12/07/2005 COURTORDER
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
- TWC Chapter 26 26.121
- Rqmt Prov: 13863-001 PERMIT
- Description: Failure to comply with the permitted grab sample effluent limits for carbonaceous biochemical oxygen demand, total suspended solids, dissolved oxygen, and chlorine residual for grab samples collected during compliance investigations on 09/03/03, 01/16/04, and 01/29/04.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
- TWC Chapter 26 26.121
- Rqmt Prov: TPDES Permit No. 13863-001 PERMIT
- Description: Failure to maintain compliance with the permitted effluent limits for carbonaceous biochemical oxygen demand, total suspended solids, and daily average flow as reported on the monthly discharge monitoring reports.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(9)
- Rqmt Prov: No. 13863-001 PERMIT
- Description: Failure to provide noncompliance notification as required, for effluent violations which deviate from the permitted effluent limitations by more than 40%.
- Classification: Minor
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.5(e)
- Rqmt Prov: 13863-001 PERMIT
- Description: Failure to report the correct sampling frequency on the Discharge Monitoring Reports (DMRs).
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.5(b)
- Rqmt Prov: 13863-001 PERMIT

Description: Failure to collect and analyze effluent samples for the week of 12/28/03 through 01/03/04, as required.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)

TWC Chapter 26 26.121

Rqmt Prov: 13863-001 PERMIT

Description: Failure to comply with the permitted effluent limits.

Classification: Moderate

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

Rqmt Prov: 13863-001 PERMIT

Description: Failure to collect effluent samples after the final treatment unit, as required.

Classification: Moderate

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

Rqmt Prov: 13863-001 PERMIT

Description: Failure to provide prior notification of the plant expansion, as required.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)

Rqmt Prov: 13863-001 PERMIT

Description: Failure to comply with the permitted effluent limits.

Classification: Moderate

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

Rqmt Prov: 13863-001 PERMIT

Description: Failure to measure the effluent flow and chlorine residual from the north and south plants, as required.

Classification: Moderate

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

Rqmt Prov: 13863-001 PERMIT

Description: Failure to comply with the permitted effluent limits.

Classification: Moderate

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

Rqmt Prov: 13863-001 PERMIT

Description: Failure to comply with the permitted effluent limits.

Classification: Moderate

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

Rqmt Prov: 13863-001 PERMIT

Description: Failure to comply with the permitted effluent limits.

Classification: Moderate

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

Rqmt Prov: 13863-001 PERMIT

Description: Failure to provide noncompliance notification as required.

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to conduct the manganese oxide correction for the total chlorine residual analysis.

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	09/01/2004	(292688)
2	09/16/2004	(292828)
3	09/20/2004	(491398)
4	09/28/2004	(491399)
5	09/29/2004	(334172)
6	11/03/2004	(491401)
7	12/20/2004	(491404)
8	01/13/2005	(491406)
9	02/21/2005	(491387)
10	03/02/2005	(336406)
11	03/22/2005	(491389)
12	03/24/2005	(374930)
13	04/18/2005	(491392)
14	05/19/2005	(491394)
15	06/26/2005	(491395)

16	07/29/2005	(491397)
17	10/10/2005	(491400)
18	10/27/2005	(491402)
19	11/14/2005	(491403)
20	12/27/2005	(491405)
21	02/06/2006	(491407)
22	03/08/2006	(491388)
23	04/28/2006	(456291)
24	05/26/2006	(505764)
25	05/26/2006	(505765)
26	06/19/2006	(505766)
27	09/12/2006	(528026)
28	10/31/2007	(599393)
29	11/01/2007	(630150)
30	11/01/2007	(630152)
31	11/01/2007	(630153)
32	11/01/2007	(630154)
33	11/01/2007	(630155)
34	11/01/2007	(630156)
35	11/01/2007	(630157)
36	11/01/2007	(630158)
37	11/01/2007	(630159)
38	11/01/2007	(630160)
39	11/01/2007	(630161)
40	11/01/2007	(630162)
41	11/01/2007	(630163)
42	11/01/2007	(630164)
43	11/01/2007	(630165)
44	11/01/2007	(630166)
45	01/23/2008	(630151)
46	02/17/2008	(755772)
47	04/23/2008	(695545)
48	08/04/2008	(732465)
49	08/21/2008	(717083)
50	09/29/2008	(717084)
51	09/30/2008	(732466)
52	12/01/2008	(732467)
53	12/22/2008	(732468)
54	01/20/2009	(721460)
55	02/17/2009	(755769)
56	02/17/2009	(755770)
57	02/17/2009	(755771)
58	02/17/2009	(755773)

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

Date: 01/31/2005 (491387) CN601179344
 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 (491389) CN601179344
 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 (491392)
 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 (491394)
 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 (491395) CN601179344
 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: 08/30/2005 (491397)
 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: 08/31/2005 (491400) CN601179344
 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: 09/30/2005 (491402) CN601179344
 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: 10/31/2005 (491403) CN601179344
 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: 04/28/2006 (456291)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)

Description: Failure to accurately measure the flow.
 Date: 06/30/2006 (630157) CN601179344
 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: 11/30/2006 (630185)
 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 (630166)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2007 (630150) CN601179344
 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: 02/28/2007 (630153) CN601179344
 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: 03/31/2007 (630154) CN601179344
 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: 04/11/2007 (539576) CN601179344
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.7(e)

Description: Failure to install an intruder resistant fence around the wastewater treatment plant (WWTP).
 Date: 05/31/2007 (630156) CN601179344
 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 (695545) CN601179344
 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 (717084) CN601179344
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: 09/01/2008 (732466) CN601179344
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
H.H.J., INC.
RN102180411**

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

AGREED ORDER DOCKET NO. 2009-0359-MLM-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 H.H.J., INC. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by David Smith of the law firm of Barrett & Smith PLLC, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility associated with a collection system located on the northeast side of State Highway 249 and on the east side of Cripple Creek Drive, approximately 0.8 mile north of the intersection of State Highway 249 and Stagecoach Road, and approximately 2.7 miles southeast of the intersection of Farm-to-Market Roads 149 and 1774, and approximately 4.0 miles northwest of the City of Tomball in Montgomery County, Texas (the "Plant").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
4. 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.
5. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about February 28, 2009, and April 25, 2009.

6. 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.
7. An administrative penalty in the amount of Eleven Thousand Five Hundred Ten Dollars (\$11,510) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Two Hundred Eight Dollars (\$2,208) of the administrative penalty and Two Thousand Three Hundred Two Dollars (\$2,302) is deferred contingent upon the Respondent's timely and satisfactory compliance with all 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.

The remaining amount of Seven Thousand Dollars (\$7,000) of the administrative penalty shall be payable in five monthly payments of One Thousand Four Hundred Dollars (\$1,400) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

8. 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.
9. 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.
10. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. By March 10, 2009, repaired a float switch on a lift station and cleaned and disinfected the area affected by the discharge; and
 - b. By May 27, 2009, submitted evidence of legal restrictions prohibiting residential structures within that portion of the buffer zone not owned by the Respondent.
11. 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.
12. 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.

13. 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 Plant, the Respondent is alleged to have:

1. Failed to submit sufficient evidence of legal restrictions prohibiting residential structures within that part of the 150 foot buffer zone not owned by the Respondent, in violation of 30 TEX. ADMIN. CODE § 309.13(e)(3) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013863001, Other Requirements No. 4, as documented during an investigation on February 2, 2009.
2. Failed to obtain authorization to discharge prior to beginning construction of a treatment facility, in violation of TEX. WATER CODE § 26.027(c), as documented during an investigation on February 2, 2009. Specifically, the Respondent had begun construction activities for a pending industrial permit before the permit was issued.
3. Failed to prevent nuisance odor conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during an investigation on December 30, 2008. Specifically, the investigator documented light to moderate odors of a highly offensive nature, for a period of about 30 minutes.
4. Failed to prevent the discharge of untreated wastewater from the Plant's collection system, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013863001, Permit Conditions No. 2.g, as documented during an investigation conducted on March 10, 2009. Specifically, a discharge of untreated wastewater occurred from a manhole located in the 300 block of Morris Road from March 7 to March 8, 2009.
5. Failed to submit a noncompliance notification for an unauthorized discharge, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0013863001, Monitoring and Reporting Requirements No. 7, as documented during an investigation conducted on March 10, 2009. Specifically, the unauthorized discharge that occurred from March 7 to 8, 2009, was not reported to the TCEQ either orally or by facsimile transmission within 24 hours of the Respondent becoming aware of the discharge.

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 7 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: H.H.J., INC., Docket No. 2009-0359-MLM-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. Immediately upon the effective date of this Agreed Order, cease all construction activities related to the industrial treatment Plant until authorization to discharge is granted by the TCEQ;
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.g. below;
 - c. Within 30 days after the effective date of this Agreed Order, implement procedures and conduct training to ensure that unauthorized discharges are reported to the TCEQ either orally or by facsimile within 24 hours of becoming aware of the discharge;
 - d. Within 30 days after the effective date of this Agreed Order, submit, for review and approval, a plan that describes procedures designed to mitigate odors from the Plant. The plan shall be submitted to the following address:

Water Quality Division
Water Quality Assessment Section, MC 150
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 Street, Suite H
Houston, Texas 77023-1452

- e. Respond to requests for additional information within 30 days of such requests;
- f. Implement the procedures described in the odor mitigation plan within 30 days of the plan's approval; and
- g. 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 Nos. 2.c. through 2.f. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant 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. Rubin
For the Executive Director

12/1/2009
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.

Robert R. Weedn, Pres.
Signature

9/3/09
Date

Robert R. WEEDN, PRES.
Name (Printed or typed)
Authorized Representative of
H.H.J., INC.

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.

