

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1160-MWD-E **TCEQ ID:** RN102916574 **CASE NO.:** 38007

RESPONDENT NAME: CMH Parks, Inc.

| | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|----------------------------------------------------------------------|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA, (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: CMH Park WWTP, located near 308 Blue Grass Street, Collin County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 30, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2576; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Brandon S. Webb, Director of Operations, CMH Parks, Inc., 500 Alcoa Trail, Maryville, Tennessee 37802 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 19, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 8, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to obtain a permit for the operation of the Facility. Specifically, the Facility was operating and discharging effluent without a permit [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 305.43].</p> | <p>Total Assessed: \$9,990</p> <p>Total Deferred: \$1,998 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$7,992</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 implemented the following corrective measures at the Facility:</p> <p>a. Hired a new consultant to operate the Facility on June 30, 2009; and</p> <p>b. Hired an engineering firm on July 22, 2009 to submit an application for a new permit for authorization to operate and discharge from the Facility.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.; and</p> <p>d. Within 300 days after the effective date of this Agreed Order, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p> |

Additional ID No(s): TCEQ Permit No. WQ0013962001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 13-Jul-2009 | Screening | 23-Jul-2009 | EPA Due | |
| | PCW | 23-Jul-2009 | | | | |

| | |
|----------------------------------------|---------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | CMH Parks, Inc. |
| Reg. Ent. Ref. No. | RN102916574 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor |

| | | | |
|-------------------------|------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 38007 | No. of Violations | 1 |
| Docket No. | 2009-1160-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Thomas Jecha |
| Admin. Penalty \$ Limit | Minimum \$0 | EC's Team | Enforcement Team 3 |
| | Maximum \$10,000 | | |

Penalty Calculation Section

| | | |
|-------------------------------------------------------------|-------------------|----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$9,000 |
|-------------------------------------------------------------|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|--------------|
| Compliance History | 11.0% Enhancement | Subtotals 2, 3, & 7 | \$990 |
|---------------------------|-------------------|--------------------------------|--------------|

Notes: Enhancement for three NOV's with self-reported effluent data and one NOV with same or similar violations at this Facility within the past five years.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|------------------------------------------------------|-------------------|------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|------------------------------------------------------|-------------------|------------|

| | | | |
|-------------------------|-------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|------------|

Total EB Amounts \$2,637
 Approx. Cost of Compliance \$25,000
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$9,990 |
|-----------------------------|-----------------------|----------------|

| | | | |
|---------------------------------------------|------|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---------------------------------------------|------|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$9,990**

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$9,990 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|-----------------|-------------------|-----------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,998 |
|-----------------|-----------------|-------------------|-----------------|

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 | \$7,992 |
|------------------------|----------------|

Screening Date: 23-Jul-2009

Docket No.: 2009-1160-MWD-E

PCW

Respondent: CMH Parks, Inc.

Policy Revision 2 (September 2002)

Case ID No.: 38007

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102916574

Media [Statute]: Water Quality

Enf. Coordinator: Thomas Jecha

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> | 1 | 5% |
| | Other written NOVs | 3 | 6% |
| 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) 11%

>> **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 for three NOVs with self-reported effluent data and one NOV with same or similar violations at this Facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 11%

| | | |
|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Screening Date 23-Jul-2009 | Docket No. 2009-1160-MWD-E | PCW |
| Respondent CMH Parks, Inc. | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 38007 | <i>PCW Revision October 30, 2008</i> | |
| Reg. Ent. Reference No. RN102916574 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Thomas Jecha | | |
| Violation Number <input type="text" value="1"/> | | |
| Rule Cite(s) | Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code § 305.43 | |
| Violation Description | Failed to obtain a permit for the operation of the Facility. Specifically, the Facility was operating and discharging effluent without a permit. | |
| Base Penalty | | \$10,000 |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|------------------|----------------|--------------|-----------------|------------------------------------------------|--------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | | | | |
| Potential | | | | Percent <input type="text" value="0%"/> | |

>> Programmatic Matrix

| | | | | | |
|--|----------------------|--------------|-----------------|--------------|-------------------------------------------------|
| | Falsification | Major | Moderate | Minor | |
| | | X | | | |
| | | | | | Percent <input type="text" value="10%"/> |

Matrix Notes 100% of the rule requirement was not met.

Adjustment

\$1,000

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty

Nine monthly events are recommended from the date the Respondent acquired the Facility, November 5, 2008, until the July 23, 2009 screening date.

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

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: CMH Parks, Inc.
Case ID No.: 38007
Reg. Ent. Reference No.: RN102916574
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 | Overtime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|----------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|----------------|-----------|

No commas or \$

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Overtime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|----------------|-----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | \$25,000 | 5-Nov-2008 | 15-Dec-2010 | 2.11 | \$2,637 | n/a | \$2,637 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs: Actual cost to obtain a new TPDES permit. The date required is the date the Respondent acquired ownership of the Facility and the final date is the estimated date for obtaining a new permit.

Avoided Costs

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Overtime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|----------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs:

| | | | |
|----------------------------|----------|--------------|---------|
| Approx. Cost of Compliance | \$25,000 | TOTAL | \$2,637 |
|----------------------------|----------|--------------|---------|

Compliance History Report

Customer/Respondent/Owner-Operator: CN600625057 CMH Parks, Inc. Classification: AVERAGE Rating: 0.63
Regulated Entity: RN102916574 CMH PARK WWTP Classification: AVERAGE Site Rating: 0.83
ID Number(s): WASTEWATER PERMIT WQ0013962001
WASTEWATER PERMIT TPDES0116491
WASTEWATER PERMIT TX0116491
Location: 308 BLUE GRASS STREET, COLLIN COUNTY
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: July 21, 2009
Agency Decision Requiring Compliance Enforcement
Compliance Period: July 21, 2004 to July 21, 2009

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

Name: Thomas Jecha Phone: 239 - 2576

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? Yes
3. If Yes, who is the current owner/operator? CMH Parks, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s) ? Value Family Properties LLC
5. When did the change(s) in owner or operator occur? 11/5/08

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 | 08/20/2004 | (366045) |
| 2 | 09/20/2004 | (366046) |
| 3 | 10/20/2004 | (366047) |
| 4 | 11/22/2004 | (389531) |
| 5 | 12/20/2004 | (389532) |
| 6 | 01/31/2005 | (427077) |
| 7 | 02/23/2005 | (389529) |
| 8 | 03/21/2005 | (389530) |
| 9 | 04/22/2005 | (427074) |
| 10 | 05/20/2005 | (427075) |
| 11 | 06/23/2005 | (427076) |
| 12 | 07/20/2005 | (447208) |
| 13 | 08/22/2005 | (447209) |
| 14 | 09/20/2005 | (447210) |
| 15 | 10/21/2005 | (491609) |
| 16 | 12/19/2005 | (491610) |

17 01/27/2006 (491611)
 18 02/27/2006 (491607)
 19 03/24/2006 (491608)
 20 04/26/2006 (505842)
 21 05/24/2006 (505843)
 22 06/29/2006 (505844)
 23 10/06/2006 (630379)
 24 10/06/2006 (630380)
 25 10/16/2006 (508764)
 26 10/23/2006 (630381)
 27 11/30/2006 (532260)
 28 08/26/2008 (688477)
 29 07/08/2009 (760846)
 30 07/20/2009 (761831)

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

Date: 09/30/2004 (366047) CN600625057
 Self YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2004 (427077) CN600625057
 Self YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2005 (389529) CN600625057
 Self 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: 10/11/2006 (508764) CN600625057
 Self NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.4
 Description: Failure to sample and analyze for the parameters indicated by the permit.
 Self NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to properly conduct chlorine residual analysis.
 Self NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 Description: Failure to maintain complete laboratory analysis records.
 Self NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to properly calculate daily average CBOD and TSS loadings.
 Self NO Classification: Moderate
 Citation: TWC Chapter 26 26.121
 Description: Failure to submit permit renewal application.

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
CMH PARKS, INC.
RN102916574**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1160-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 CMH Parks, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located near 308 Blue Grass Street in Collin County, Texas (the "Facility").
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 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 July 13, 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 Nine Thousand Nine Hundred Ninety Dollars (\$9,990) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Nine Hundred Ninety-Two Dollars

(\$7,992) of the administrative penalty and One Thousand Nine Hundred Ninety-Eight Dollars (\$1,998) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. Hired a new consultant to operate the Facility on June 30, 2009; and
 - b. Hired an engineering firm on July 22, 2009 to submit an application for a new permit for authorization to operate and discharge from the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to obtain a permit for the operation of the Facility, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 305.43, as documented during an investigation conducted on June 19, 2009. Specifically, the Facility was operating and discharging effluent without a permit.

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: CMH Parks, Inc., Docket No. 2009-1160-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305 to:

Water Quality Administrative Review Section
Registration, Review and Reporting Division, MC 161
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described below in Ordering Provision No. 2.d.; and
 - d. Within 300 days after the effective date of this Agreed Order, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person

or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

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

facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

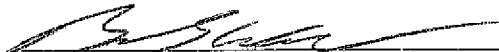
11-5-2009
Date

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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



Signature

9-18-2009
Date

Brandon S. Wertz

Name (Printed or typed)
Authorized Representative of
CMH Parks, Inc.

DIRECTOR OF OPERATIONS
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.