

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0713-IWD-E **TCEQ ID:** RN100897362 **CASE NO.:** 39631
RESPONDENT NAME: D.B. Western, Inc. - Texas

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: D B Western, 12511 Strang Road, east of the Texas New Orleans Railroad, approximately 3,000 feet northwest of the intersection of State Highway 225 and State Highway 146, La Porte, Harris County</p> <p>TYPE OF OPERATION: Chemical production plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 27, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Dennis Beetham, President, D.B. Western, Inc. - Texas, P. O. Box 50, Northbend, Oregon 97459 Mr. Mike Bocksnick, Operations Manager, D.B. Western, Inc. - Texas, 12511 Strang Road, La Porte, Texas 77571 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: February 25, 2010</p> <p>Date of NOV/NOE Relating to this Case: April 19, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to comply with the permitted effluent limitations and excursion criteria for pH and oil and grease [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004201000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2 and Other Requirements No. 10].</p> <p>2) Failed to accurately complete monthly effluent reports. Specifically, pH data for range excursions greater than 60 minutes and range excursions outside 5 - 11 standard units reported on the discharge monitoring reports ("DMR") for March 2009 through January 2010 and the total number of oil and grease exceedences reported for May 2009, were not correct. [30 TEX. ADMIN. CODE §§ 305.125(1), 319.1, and 319.7(a)(5) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 2].</p> <p>3). Failed to timely submit noncompliance notification to the Regional Office and Enforcement Division. Specifically, notices for pH and oil and grease effluent violations for the period of February 2009 through January 2010 were submitted late to the TCEQ [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No.</p>	<p>Total Assessed: \$91,135</p> <p>Total Deferred: \$18,227 <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: \$2,033 (remaining \$70,875 due in 35 monthly payments of \$2,025 each)</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site 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 that the Respondent implemented the following corrective measures at the Facility by April 28, 2010:</p> <p>a. Developed and implemented a procedure to ensure that noncompliance notifications are submitted timely to the TCEQ Houston Regional Office and Enforcement Division;</p> <p>b. Placed a National Institute of Standards and Technology traceable thermometer in the sample storage refrigerator;</p> <p>c. Developed and implemented a procedure to ensure that all DMRs for Outfalls 001 and 101 are submitted timely; and</p> <p>d. On March 8, 2010, submitted the missing DMRs for Outfall 101 for February 2009 through January 2010.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all DMR data submitted to the TCEQ are accurate.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.</p> <p>c. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Sample and submit the analytical test results for the parameters listed in Attachment 1 of the permit; and</p> <p>ii. Implement a new treatment option to reduce effluent pH levels and ensure a copy of the new treatment option is submitted to the TCEQ Industrial</p>

<p>WQ0004201000, Monitoring and Reporting Requirements No. 7].</p> <p>4) Failed to utilize a National Institute of Standards and Technology traceable thermometer in the sample storage refrigerator [30 TEX. ADMIN. CODE § 319.11(b) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 2.a.].</p> <p>5) Failed to sample and submit analytical results for parameters listed in the permit. Specifically, sampling was not conducted for the parameters listed in Attachment 1 of the permit for Outfall 001 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0004201000, Other Requirements No. 5].</p> <p>6) Failed to develop and implement a new treatment option to reduce pH levels within 180 days of permit issuance [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0004201000, Other Requirements No. 12].</p> <p>7) Failed to timely submit monthly effluent reports by the 20th day of the following month. Specifically, DMRs for Outfall 001 were submitted late for March, April, June, September, October, November, and December 2009 [30 TEX. ADMIN. CODE §§ 305.125(1), 319.1, and 319.7(d) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 1].</p> <p>8) Failed to timely submit monthly effluent reports by the 20th day of the following month whether or not a discharge is made that month. Specifically, DMRs for internal Outfall 101 for February 2009 through January 2010 were not received by the TCEQ until March 11, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1), 319.1, and 319.7(d) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 1].</p>		<p>Wastewater Permitting Team 2.</p> <p>d. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision c. and the permitted effluent limitations of TPDES Permit No. WQ0004201000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>
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Additional ID No(s): WQ0004201000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-Apr-2010	Screening	5-May-2010	EPA Due	
	PCW	14-Jun-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	D.B. Western, Inc. - Texas		
Reg. Ent. Ref. No.	RN100897362		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39631	No. of Violations	9
Docket No.	2010-0713-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

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 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision: October 30, 2008

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

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)	39	195%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 215%

>> 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 38 self-reported effluent violations, one NOV with same or similar violations, and one order containing a denial of liability for this Facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 215%

Screening Date 6-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004201000; Effluent Limitations and Monitoring Requirements No. 2 and Other Requirements No. 10.

Violation Description Failed to comply with permitted effluent limitations and excursion criteria (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

pH continuous grab sample readings outside the range of 5.0 - 11.0 standard units ("su") were considered. Oil and grease was also considered. As a result, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 7

118 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$17,500

Seven monthly events are recommended for March, May, June, July, October and December 2009 and January 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement
	Extraordinary	
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$17,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$49,857

This violation Final Assessed Penalty (adjusted for limits) \$49,857

Economic Benefit Worksheet

Respondent: D.B. Western, Inc. - Texas
Case ID No.: 39631
Reg. Ent. Reference No.: RN100897362
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	16

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

Delayed Costs

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

Notes for DELAYED costs

See economic benefit for Violation No. 7.

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

\$0

TOTAL

\$0

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0004201000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2 and Other Requirements No. 10.

Violation Description Failed to comply with permitted effluent limitations and excursion criteria (see attached table).

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

pH continuous grab sample readings between 5.0 - 6.0 su or 9.0 -11.0 su for periods of more than 60 minutes were considered. As a result, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 29

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended to include the months of April, August, September, and November 2009.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,547

This violation Final Assessed Penalty (adjusted for limits) \$8,547

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39631
Reg. Ent. Reference No. RN100897362
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 7.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$0

TOTAL \$0

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 319.1, and 319.7(a)(5) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 2

Violation Description

Failed to accurately complete discharge monitoring reports ("DMRs"). Specifically, pH data for range excursions greater than 60 minutes and range excursions outside 5 - 11 su reported on the DMR for March 2009 through January 2010 and the total number of oil and grease exceedences reported for May 2009, were not correct.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 11 Number of violation days 334

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

Violation Base Penalty \$1,100

Eleven single events are recommended (one event per DMR).

Good Faith Efforts to Comply

0.0% Reduction \$0

	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 \$1,100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$3,134

This violation Final Assessed Penalty (adjusted for limits) \$3,134

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39631
Reg. Ent. Reference No. RN100897362
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
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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)	\$250	20-Apr-2009	28-Dec-2010	1.69	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to develop and implement a procedure to ensure that all DMR data submitted by the Respondent to the TCEQ are accurate. The date required is the due date of the first DMR and the 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

\$250

TOTAL

\$21

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 7

Violation Description Failed to timely submit noncompliance notification to the Regional Office and Enforcement Division. Specifically, notices for pH and oil and grease effluent violations for the period of February 2009 through January 2010 were submitted late to the TCEQ.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 11 334 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,100

Eleven single events are recommended.

Good Faith Efforts to Comply

10.0% Reduction \$110

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

Notes A procedure to provide proper notification to the TCEQ was implemented on April 28, 2010.

Violation Subtotal \$990

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$3,034

This violation Final Assessed Penalty (adjusted for limits) \$3,034

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39631
Reg. Ent. Reference No. RN100897362
Media Water Quality
Violation No. 4

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)				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)	\$200	20-Mar-2009	28-Apr-2010	1.11	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to develop and implement a procedure to ensure that noncompliance notifications are submitted timely to the TCEQ Houston Regional Office and Enforcement Division. The date required is the date the first DMR was to be submitted and the final date is the 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

\$200

TOTAL

\$11

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 319.11(b) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 2.a.

Violation Description

Failed to utilize a National Institute of Standards and Technology traceable thermometer in the sample storage refrigerator.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

111 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$50

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

Notes The required thermometer was obtained by April 28, 2010.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,379

This violation Final Assessed Penalty (adjusted for limits) \$1,379

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39631
Reg. Ent. Reference No. RN100897362
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	OneTime Costs	EB Amount
<small>No commas or \$</small>							

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)	\$200	26-Feb-2010	26-Apr-2010	0.17	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to obtain a National Institute of Standards and Technology traceable thermometer. The date required is the investigation date and the final date is the 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

\$200

TOTAL

\$2

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jacha, P.G.

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0004201000, Other Requirements No. 5

Violation Description Failed to sample and submit analytical results for parameters listed in the permit. Specifically, sampling was not conducted for the parameters listed in Attachment 1 of the permit for Outfall 001.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 360 Number of violation days

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

Violation Base Penalty \$4,000

Four quarterly events are recommended from May 10, 2009, the date the permit required submittal of the sample results, until the May 5, 2010 screening date.

Good Faith Efforts to Comply

	0.0% Reduction	\$0
	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 \$4,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$172

Statutory Limit Test

Violation Final Penalty Total \$11,396

This violation Final Assessed Penalty (adjusted for limits) \$11,396

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39631
Reg. Ent. Reference No. RN100897362
Media Water Quality
Violation No. 6

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	\$2,000	10-May-2009	27-Jan-2011	1.72	\$172	n/a	\$172
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 the data for sampling and analysis of parameters in Attachment 1 at Outfall 001. The date required is the date sampling and analysis results were to be submitted to TCEQ and the 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

\$172

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0004201000, Other Requirements No. 12

Violation Description Failed to develop and implement a new treatment option to reduce pH levels within 180 days of permit issuance.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

	3	270	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$3,000

Three quarterly events are recommended from August 8, 2009, the date the new treatment option was to be implemented, until the May 5, 2010 case screening date.

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
	Before NOV	NOV to EDPRP/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 \$3,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$1,103

Statutory Limit Test

Violation Final Penalty Total \$8,547

This violation Final Assessed Penalty (adjusted for limits) \$8,547

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39631
Reg. Ent. Reference No. RN100897362
Media Water Quality
Violation No. 7

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)	\$15,000	6-Aug-2009	27-Jan-2011	1.47	\$1,103	n/a	\$1,103

Notes for DELAYED costs
 Estimated cost to develop and implement a new treatment option to reduce effluent pH levels. The date required is the date the new treatment option was required to be implemented and the 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 \$15,000
TOTAL \$1,103

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39631

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 319.1, and 319.7(d) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit DMRs by the 20th day of the following month. Specifically, DMRs for Outfall 001 were submitted late for March, April, June, September, October, November, and December 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

	7	213	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
single event		x	

Violation Base Penalty \$700

Seven single events are recommended (one event per DMR).

Good Faith Efforts to Comply

	10.0%	Reduction	\$70
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary		x	
N/A		(mark with x)	

Notes A procedure to submit DMRs on time was implemented on April 28, 2010.

Violation Subtotal \$630

Economic Benefit (EB) for this violation

Estimated EB Amount \$10

Statutory Limit Test

Violation Final Penalty Total \$1,931

This violation Final Assessed Penalty (adjusted for limits) \$1,931

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39631
Reg. Ent. Reference No. RN100897362
Media Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$200	20-Apr-2009	28-Apr-2010	1.02	\$10	n/a	\$10

Notes for DELAYED costs
 Estimated cost to develop and implement a procedure to ensure that all DMRs are submitted timely. The date required is the date the first DMR was due and the final date is the 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
 (Empty box for notes)

Approx. Cost of Compliance \$200 TOTAL \$10

Screening Date 5-May-2010

Docket No. 2010-0713-IWD-E

PCW

Respondent D.B. Western, Inc. - Texas

Policy Revision 2 (September 2002)

Case ID No. 39831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100897362

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 319.1, and 319.7(d) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit DMRs by the 20th day of the following month whether or not a discharge is made that month. Specifically, DMRs for internal Outfall 101 for February 2009 through January 2010 were not received by the TCEQ until March 11, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 12 Number of violation days 357

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

Violation Base Penalty \$1,200

Twelve single events (one for each month) are recommended.

Good Faith Efforts to Comply

10.0% Reduction \$120

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

Notes A procedure to submit DMRs on time was implemented on April 28, 2010.

Violation Subtotal \$1,080

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,310

This violation Final Assessed Penalty (adjusted for limits) \$3,310

Economic Benefit Worksheet

Respondent D.B. Western, Inc. - Texas
Case ID No. 39831
Reg. Ent. Reference No. RN100897362
Media Water Quality
Violation No. 9

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

Notes for DELAYED costs

See economic benefit for Violation No. 8.

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 \$0

TOTAL \$0

Effluent Limit Violation Table

Respondent	D.B. Western, Inc. - Texas	
ID Number(s)	TPDES Permit No. WQ0004201000	
Docket Number	2010-0713-IWD-E	
Enf. Coordinator	Thomas Jecha	
Corresponds to Violation Number:	1 and 2	

EFFLUENT PARAMETER
Permit Limit

<i>Month/Year</i>	pH range excursions outside 5 - 11 su (continuous grab) occurrences/mo.	pH range excursions between 5 - 6 or 9 - 11 su and > 60 minutes (continuous grab) occurrences/mo.	Oil and Grease exceeding 15mg/L max.conc. (single grab) occurrences/mo.							
3/31/2009	13	6	c							
4/30/2009	0	11	c							
6/31/2009	4	35	2							
6/30/2009	14	38	c							
7/31/2009	23	16	c							
8/31/2009	0	18	c							
9/30/2009	0	4	c							
10/31/2009	2	7	c							
11/30/2009	0	9	c							
12/31/2009	3	1	c							
1/31/2010	28	9	c							

su = standard units
mg/L = milligrams per liter
mo. = month

max. = maximum
conc. = concentration
c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600570956 D.B. Western, Inc. - Texas	Classification: AVERAGE	Rating: 5.84
Regulated Entity:	RN100897362 D B WESTERN	Classification: AVERAGE	Site Rating: 5.84
ID Number(s):	AIR NEW SOURCE PERMITS PERMIT		43009
	AIR NEW SOURCE PERMITS ACCOUNT NUMBER		HX2702Q
	WASTEWATER PERMIT		WQ0004201000
	WASTEWATER PERMIT		TPDES0122335
	WASTEWATER PERMIT		TX0122335
	STORMWATER PERMIT		TXR05S161
Location:	12511 Strang Rd, E of Texas New Orleans Railroad, approx 3,000 ft NW of Intersect of SH 225 & SH 146 La Porte, Harris Co, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	April 28, 2010		
Agency Decision Requiring Compliance	Enforcement		
Compliance Period:	April 28, 2005 to April 28, 2010		

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? 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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 12/30/2005 ADMINORDER 2005-0072-IWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(a)

Rqmt Prov: M&RR No. 3.a. PERMIT

Description: Failure to properly collect oil and grease ("O&G") samples for effluent quality monitoring. Specifically, the sample collected for the O&G analysis was not being collected directly into the sample container from the discharge.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: M&RR No. 3.b. PERMIT

Description: Failure to maintain the required pH and temperature monitoring records for Outfall 001.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.9(c)

Rqmt Prov: M&RR No. 2 PERMIT

Description: Failure to perform the required quality assurance and quality control (QA/QC) analysis for the free available chlorine test procedure. Specifically, neither a sample duplicate or a secondary standard was being analyzed as a part of the free chlorine residual test.

Classification: Minor

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

30 TAC Chapter 319, SubChapter A 319.11(b)

Rqmt Prov: M&RR No. 2 PERMIT

Description: Failure to provide a National Institute of Standards and Technology (NIST) traceable thermometer to document that the proper temperature is being maintained in the sample refrigerator.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: M&RR No. 2 PERMIT

Description: Failure to accurately complete the DMRs. Specifically, the DMRs for January 2003 through June 2003 and August 2003 through May 2004 did not contain all required flow, temperature, and/or pH data.

Classification: Major

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(a)

Description: Failure to obtain a permit to discharge storm water from non-process areas of the facility.

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. (CEEDS Inv. Track. No.)

1	05/11/2005	(427824)
2	06/30/2005	(427825)
3	07/31/2005	(447833)
4	08/17/2005	(447834)
5	10/06/2005	(493144)
6	10/17/2005	(493145)
7	11/18/2005	(493147)
8	12/21/2005	(493148)
9	02/06/2006	(493149)
10	03/22/2006	(493142)
11	03/22/2006	(493143)
12	06/13/2006	(506607)
13	06/13/2006	(506608)
14	06/13/2006	(506609)
15	08/09/2006	(528777)
16	08/09/2006	(528778)
17	12/20/2006	(552000)
18	12/20/2006	(552001)
19	01/12/2007	(589386)
20	01/12/2007	(589387)
21	01/18/2007	(519318)
22	01/18/2007	(589388)
23	02/22/2007	(589381)
24	04/25/2007	(589382)
25	04/25/2007	(589383)
26	05/21/2007	(589384)
27	06/12/2007	(589385)
28	07/16/2007	(605839)
29	09/21/2007	(605840)
30	09/21/2007	(605841)
31	11/26/2007	(632281)
32	11/26/2007	(632282)
33	12/20/2007	(632283)
34	02/04/2008	(677509)

35 02/05/2008 (677508)
 36 02/26/2008 (613365)
 37 03/14/2008 (696271)
 38 04/17/2008 (696272)
 39 05/14/2008 (696273)
 40 06/13/2008 (717929)
 41 08/04/2008 (717930)
 42 08/28/2008 (717931)
 43 10/06/2008 (733229)
 44 12/15/2008 (733230)
 45 12/19/2008 (733231)
 46 12/29/2008 (733232)
 47 01/21/2009 (756378)
 48 03/20/2009 (773331)
 49 03/20/2009 (773332)
 50 04/22/2009 (773333)
 51 04/20/2010 (793416)

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

Date: 09/30/2005 (493145) CN600570956
 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: 10/31/2005 (493147) CN600570956
 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: 11/30/2005 (493148) CN600570956
 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: 12/31/2005 (493149) CN600570956
 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: 01/31/2006 (493142) CN600570956
 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: 02/28/2006 (493143) CN600570956
 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: 03/31/2006 (506607) CN600570956
 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: 10/31/2006 (589386) CN600570956
 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: 11/30/2006 (589387) CN600570956

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: 12/31/2006 (589388) CN600570956

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: 01/18/2007 (519318)

Self NO Classification: Moderate
 Report?

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the permitted effluent limits.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with self-monitored effluent limits.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Discharge Monitoring Reports PERMIT
 Description: Failure to report the number of permit excursions on the Discharge Monitoring Reports (DMRs)
 Date: 02/28/2007 (589382) CN600570956
 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: 03/31/2007 (589383) CN600570956
 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: 04/30/2007 (589384) CN600570956
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2007 (605839) CN600570956
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2007 (605840) CN600570956
 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: 08/31/2007 (605841) CN600570956
 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: 10/31/2007 (632282) CN600570956
 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: 12/31/2007 (677509) CN600570956
 Self Report? YES Classification: Moderate

Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2008 (677508) CN600570956
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2008 (696273) CN600570956
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2008 (717929) CN600570956
 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 (733229) CN600570956
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2008 (733230) CN600570956
 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: 11/30/2008 (733232) CN600570956
 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: 12/31/2008 (756378) CN600570956
 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: 01/31/2009 (773331) CN600570956
 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: 02/28/2009 (773332) CN600570956
 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: 03/31/2009 CN600570956
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2009 CN600570956
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2009 CN600570956
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 06/30/2009 CN600570956
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2009 CN600570956
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: 08/31/2009 CN600570956
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2009 CN600570956
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: 10/31/2009 CN600570956
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: 11/30/2009 CN600570956
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: 12/31/2009 CN600570956
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: 01/31/2010 CN600570956
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
D.B. WESTERN, INC. - TEXAS
RN100897362**

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§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0713-IWD-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 D.B. Western, Inc. - Texas ("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 chemical production plant at 12511 Strang Road, east of the Texas New Orleans Railroad, approximately 3,000 feet northwest of the intersection of State Highway 225 and State Highway 146 in La Porte, Harris County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 24, 2010.
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 Ninety-One Thousand One Hundred Thirty-Five Dollars (\$91,135) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Thirty-Three Dollars (\$2,033) of the

administrative penalty and Eighteen Thousand Two Hundred Twenty-Seven Dollars (\$18,227) 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.

The remaining amount of Seventy Thousand Eight Hundred Seventy-Five Dollars (\$70,875) of the administrative penalty shall be payable in thirty-five (35) monthly payments of Two Thousand Twenty-Five Dollars (\$2,025) 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.

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 by April 28, 2010:
 - a. Developed and implemented a procedure to ensure that noncompliance notifications are submitted timely to the TCEQ Houston Regional Office and Enforcement Division;
 - b. Placed a National Institute of Standards and Technology traceable thermometer in the sample storage refrigerator;
 - c. Developed and implemented a procedure to ensure that all discharge monitoring reports ("DMRs") for Outfalls 001 and 101 are submitted timely; and
 - d. On March 8, 2010, submitted the missing DMRs for Outfall 101 for February 2009 through January 2010. The DMRs were received by the TCEQ on March 11, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with the permitted effluent limitations and excursion criteria, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004201000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2 and Other Requirements No. 10, as documented during an investigation conducted on February 25, 2010 and shown in the following violation table:

	pH range excursions outside 5 - 11 su (continuous grab)	pH range excursions between 5 - 6 or 9 -11 su and > 60 minutes (continuous grab)	Oil and Grease exceeding 15mg/L max.conc. (single grab)
<i>Month/Year</i>	occurrences/mo.	occurrences/mo.	occurrences/mo.
3/31/2009	13	6	c
4/30/2009	0	11	c
5/31/2009	4	35	2
6/30/2009	14	38	c
7/31/2009	23	16	c
8/31/2009	0	18	c
9/30/2009	0	4	c
10/31/2009	2	7	c
11/30/2009	0	9	c
12/31/2009	3	1	c
1/31/2010	28	9	c

su = standard units, mg/L = milligrams/liter, mo. = month, max. = maximum conc. = concentration, c= compliant

2. Failed to accurately complete DMRs, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 319.1, and 319.7(a)(5) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 2, as documented during an investigation conducted on February 25, 2010. Specifically, pH data for range excursions greater than 60 minutes and range excursions outside 5 - 11 standard units reported on the DMR for March 2009 through January 2010 and the total number of oil and grease exceedences reported for May 2009, were not correct.
3. Failed to timely submit noncompliance notification to the Regional Office and Enforcement Division, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 7, as documented during an investigation conducted on February 25, 2010. Specifically, notices for pH and oil and grease

effluent violations for the period of February 2009 through January 2010 were submitted late to the TCEQ.

4. Failed to utilize a National Institute of Standards and Technology traceable thermometer in the sample storage refrigerator, in violation of 30 TEX. ADMIN. CODE § 319.11(b) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 2.a., as documented during an investigation conducted on February 25, 2010.
5. Failed to sample and submit analytical results for parameters listed in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0004201000, Other Requirements No. 5, as documented during an investigation conducted on February 25, 2010. Specifically, sampling was not conducted for the parameters listed in Attachment 1 of the permit for Outfall 001.
6. Failed to develop and implement a new treatment option to reduce pH levels within 180 days of permit issuance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0004201000, Other Requirements No. 12, as documented during an investigation conducted on February 25, 2010.
7. Failed to timely submit DMRs by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 319.1, and 319.7(d) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on February 25, 2010. Specifically, DMRs for Outfall 001 were submitted late for March, April, June, September, October, November, and December 2009.
8. Failed to timely submit DMRs by the 20th day of the following month whether or not a discharge is made that month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 319.1, and 319.7(d) and TPDES Permit No. WQ0004201000, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on February 25, 2010. Specifically, DMRs for internal Outfall 101 for February 2009 through January 2010 were not received by the TCEQ until March 11, 2010.

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: D.B. Western, Inc. - Texas, Docket No. 2010-0713-IWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all DMR data submitted to the TCEQ are accurate.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.d.
 - c. Within 60 days after the effective date of this Agreed Order:
 - i. Sample and submit the analytical test results for the parameters listed in Attachment 1 of the permit, in accordance with TPDES Permit No. WQ0004201000, Other Requirements No. 5; and
 - ii. Implement a new treatment option to reduce effluent pH levels and ensure a copy of the new treatment option is submitted to the TCEQ Industrial Wastewater Permitting Team, in accordance with TPDES Permit No. WQ0004201000, Other Requirements No. 12.
 - d. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.c. and the permitted effluent limitations of TPDES Permit No. WQ0004201000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

Order Compliance Team

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

with a copy to:

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

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

John Szolier
For the Executive Director

10/11/2010
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.

Mike Bockswick
Signature

7-9-10
Date

Mike Bockswick
Name (Printed or typed)
Authorized Representative of
D.B. Western, Inc. - Texas

OPERATIONS MANAGER
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.

