

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1372-MWD-E RN102915691 CASE NO. 38215
RESPONDENT NAME: CREEK PARK CORPORATION

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 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

SITE WHERE VIOLATION(S) OCCURRED: approximately one mile east of County Road 600 and approximately 1.5 miles south of the intersection of County Road 600 and Farm-to-Market Road 917, Johnson County

TYPE OF OPERATION: wastewater treatment plant and wastewater collection system

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired November 8, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-3400
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Water Enforcement Section, MC R-4 (817) 588-5886

TCEQ Regional Contact: Mr. Sid Slocum, Dallas/Fort Worth Regional Office, MC R-4 (817) 588-5901

Respondent: Mr. C.T. Chien, President, Creek Park Corporation, P.O. Box 630172, Irving Texas 75063

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint: None</p> <p>Date of Investigation: June 18, 2009</p> <p>Dates of NOE: August 11, 2009</p> <p>Background Facts: The EDPRP was filed on January 29, 2010. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on September 10, 2010.</p> <p>Current Compliance Status: No outstanding Technical Requirements</p> <p>MWD:</p> <ol style="list-style-type: none"> Failed to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained [30 TEX. ADMIN CODE § 305.125(5) and TPDES Permit No. WQ0013868001, Operational Requirements No. 1]. Failed to analyze field measurements within the required holding times [30 TEX. ADMIN CODE § 319.11(b) and TPDES Permit No. WQ0013868001, Operational Requirements No. 2]. Failed to prevent the discharge of sludge to the water in the state [30 TEX. ADMIN CODE § 305.125(4), TEX. WATER CODE § 26.121, and TPDES Permit No. WQ0013868001, Operational Requirements No. 2.g.]. 	<p>Total Assessed: \$4,750</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$375/\$4,375</p> <p>Respondent paid \$375 of the administrative penalty. The remaining amount of \$4,375 shall be payable in 35 monthly payments of \$125 each.</p> <p>Compliance History Classifications: <i>Person/CN – Average</i> <i>Site/RN – Average</i></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: The Executive Director recognizes that Respondent performed the following corrective actions at the Facility:</p> <ol style="list-style-type: none"> On or about June 22, 2009, installed additional aerators on the aeration basin and leveled the saw tooth weir, pumped sludge from the chlorination chamber, purchased a sludge instrument to measure sludge on a weekly basis and began recording the results in the operator log; On or about July 2, 2009, purchased a dissolved oxygen (“DO”) meter to analyze field measurements within the required holding times; and On or about July 29, 2009, removed and disposed of the sludge which had accumulated near the outfall and the nearby tributary.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-Aug-2009			
	PCW	6-Sep-2010	Screening	17-Aug-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Creek Park Corporation				
Reg. Ent. Ref. No.	RN102915691				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	38215	No. of Violations	3		
Docket No.	2009-1372-MWD-E	Order Type	1660		
Media Program(s)	Water Quality	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Cheryl Thompson		
		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	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	115.0% Enhancement	Subtotals 2, 3, & 7	\$2,875
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Notes: The Respondent self-reported 17 months of effluent violations, received two NOVs for same or similar violations and one Agreed Order with denial language.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$14
 Approx. Cost of Compliance \$5,190
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

Final Penalty Amount	\$4,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,750
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$4,750
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Screening Date 17-Aug-2009

Docket No. 2009-1372-MWD-E

PCW

Respondent Creek Park Corporation

Policy Revision 2 (September 2002)

Case ID No. 38215

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102915691

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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>)	19	95%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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) 115%

>> 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

The Respondent self-reported 17 months of effluent violations, received two NOVs for same or similar violations and one Agreed Order with denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 115%

Screening Date 17-Aug-2009 **Docket No.** 2009-1372-MWD-E **PCW**
Respondent Creek Park Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38215 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102915691
Media [Statute] Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013868001, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(5)

Violation Description
 Failed to ensure that the facility and all of its systems of collection, treatment and disposal are properly operated and maintained. Specifically, the aeration basin contained a dead zone where mixing was inadequate, a significant amount of sludge bulking was noted in the clarifier, the clarifier weir was not leveled and bulking sludge was observed in the chlorine contact basin.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the period of June 18, 2009 (date of investigation) to June 22, 2009 (date of compliance).

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes
 The Respondent returned to compliance on June 22, 2009.

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 Creek Park Corporation
Case ID No. 38215
Reg. Ent. Reference No. RN102915691
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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)	\$2,500	18-Jun-2009	22-Jun-2009	0.01	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to install additional aerators on the aeration basin, to level the saw tooth weir, to pump sludge from the chlorination chamber and to install a sludge instrument to measure sludge. The date required is the investigation date. 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

\$2,500

TOTAL

\$1

Screening Date 17-Aug-2009 **Docket No.** 2009-1372-MWD-E **PCW**
Respondent Creek Park Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38215 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102915691
Media [Statute] Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 2
Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013868001, Operational Requirements No. 2 and 30 Tex. Admin. Code § 319.11(b)
Violation Description Failed to analyze field measurements within the required holding times. Specifically, the distance and travel time to the laboratory from the plant caused the holding time for dissolved oxygen ("DO") to exceed the required 15 minutes.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	x	

Percent 5%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				

Percent 0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 14 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 25.0% Reduction \$125

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

Notes The Respondent returned to compliance on July 2, 2009.

Violation Subtotal \$375

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$950

This violation Final Assessed Penalty (adjusted for limits) \$950

Economic Benefit Worksheet

Respondent Creek Park Corporation
Case ID No. 38215
Reg. Ent. Reference No. RN102915691
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	18-Jun-2009	2-Jul-2009	0.04	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to purchase a DO meter and to begin analyzing field measurements within the required holding times. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$0

Screening Date 17-Aug-2009 **Docket No.** 2009-1372-MWD-E **PCW**
Respondent Creek Park Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38215 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102915691
Media [Statute] Water Quality
Enf. Coordinator Cheryl Thompson

Violation Number 3
Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013868001, Permit Condition No. 2.g., Tex. Water Code § 26.121 and 30 Tex. Admin. Code § 305.125(4)

Violation Description Failed to prevent the discharge of sludge to the water in the state. Specifically, during the investigation the investigator documented an accumulation of sludge and black water from the outfall in receiving waters, including an unnamed tributary of Walnut Creek and Walnut Creek.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	10%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a results of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 41 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the period of June 18, 2009 (date of investigation) to July 29, 2009 (date of compliance).

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent returned to compliance on July 29, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$1,900

This violation Final Assessed Penalty (adjusted for limits) \$1,900

Economic Benefit Worksheet

Respondent Creek Park Corporation
Case ID No. 38215
Reg. Ent. Reference No. RN102915691
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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)	\$2,000	18-Jun-2009	29-Jul-2009	0.11	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to remove and dispose of sludge from the creek. Date required is the investigation date. 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

\$2,000

TOTAL

\$11

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601479488	Creek Park Corporation	Classification: AVERAGE	Rating: 3.96
Regulated Entity:	RN102915691	WALNUT CREEK MHP	Classification: AVERAGE	Site Rating: 5.32
ID Number(s):	WASTEWATER		PERMIT	WQ001386
	WASTEWATER		PERMIT	TPDES0118
	WASTEWATER		PERMIT	TX0118770

Location: LOCATED APPROX 1 MI E OF CR 600 AND APPROX 1.5 MI S OF THE INTERSECTION OF CR 600 AND FM 917 IN JOHNSON COUNTY
 TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: August 18, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: August 18, 2004 to August 18, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Cheryl Thompson Phone: (817) 588-5886

Site Compliance History Components

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

Components (Multimedia) for the Site:

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

Effective Date: 08/28/2004 **ADMINORDER 2000-1118-MWD-E**

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.2(c)(5)(F)
 30 TAC Chapter 317 317.4(b)(4)

Rqmt Prov: OR 1 PERMIT; OR 5 PERMIT

Description: Failed to properly operate and maintain the Facility to ensure compliance with the requirements of its permit.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121

Rqmt Prov: 2g PERMIT

Description: Failed to prevent an unauthorized discharge.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(B)

Rqmt Prov: M&R 7 PERMIT

Description: Failed to notify the TCEQ Regional Office and Enforcement Division, in writing, of the unauthorized discharge found during the May 31, 2000 inspection within five working days of becoming aware of the non-compliance.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
 30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: M&R 1 PERMIT; Sludge Provisions G PERMIT

Description: Failed to submit the monthly DMRs by the 20th day of the following month and was unable to provide the sludge documents required by the permit.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121

Rqmt Prov: FEL&MR 1 PERMIT; FEL&MR 2 PERMIT; FEL&MR 4 PERMIT; FEL&MR 6 PERMIT

Description: Failed to prevent the discharge of visible solids from the effluent pipe.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	09/10/2004	(274422)	18	02/21/2006	(492474)	35	07/18/2007	(631342)	52	12/22/2008	(732919)
2	09/17/2004	(366926)	19	03/20/2006	(492475)	36	10/11/2007	(631343)	53	01/20/2009	(756135)
3	10/18/2004	(366927)	20	04/24/2006	(506276)	37	11/08/2007	(631345)	54	02/11/2009	(756134)
4	11/15/2004	(389993)	21	05/23/2006	(506277)	38	11/09/2007	(631344)	55	04/08/2009	(741582)
5	12/20/2004	(389994)	22	06/19/2006	(506278)	39	11/19/2007	(631348)	56	08/07/2009	(759041)
6	01/15/2005	(389995)	23	07/25/2006	(528510)	40	12/12/2007	(631350)			
7	03/14/2005	(389992)	24	08/22/2006	(528511)	41	01/17/2008	(677301)			
8	04/18/2005	(427499)	25	09/22/2006	(528512)	42	02/11/2008	(677300)			
9	05/13/2005	(427500)	26	10/23/2006	(631347)	43	03/10/2008	(695979)			
10	06/17/2005	(427501)	27	11/16/2006	(631346)	44	04/23/2008	(695980)			
11	07/15/2005	(447533)	28	12/18/2006	(631349)	45	05/12/2008	(695981)			
12	08/22/2005	(447534)	29	01/22/2007	(631351)	46	06/16/2008	(717589)			
13	09/19/2005	(447535)	30	02/20/2007	(631337)	47	07/18/2008	(717590)			
14	10/24/2005	(492476)	31	03/19/2007	(631338)	48	08/21/2008	(717591)			
15	11/18/2005	(492477)	32	04/16/2007	(631339)	49	09/15/2008	(717592)			
16	12/19/2005	(492478)	33	05/21/2007	(631340)	50	09/30/2008	(732917)			
17	01/19/2006	(492479)	34	06/11/2007	(631341)	51	11/18/2008	(732918)			

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

1	<p>Date: 08/31/2004 (366926) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
2	<p>Date: 05/31/2005 (427501) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
3	<p>Date: 07/31/2005 (447534) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
4	<p>Date: 09/30/2005 (492476) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
5	<p>Date: 10/31/2005 (492477) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
6	<p>Date: 03/31/2006 (506276) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
7	<p>Date: 04/30/2006 (506277) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
8	<p>Date: 06/30/2006 (528510) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
9	<p>Date: 07/31/2006 (528511) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
10	<p>Date: 12/04/2006 (509230) CN601479488</p> <p>Self Report? NO</p> <p>Citation: 2D TWC Chapter 26, SubChapter A 26.121</p> <p>Description: Failure to prevent unauthorized discharge of wastewater from the collection system.</p> <p>Self Report? NO</p> <p>Citation: 30 TAC Chapter 305, SubChapter F 305.125(9) Monitoring & Reporting Reqs. No. 7 PERMIT</p> <p>Description: Failure to provide non-compliance notification as required by permit.</p>	Classification: Moderate
11	<p>Date: 03/31/2007 (631339) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
12	<p>Date: 04/30/2007 (631340) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
13	<p>Date: 05/31/2007 (631341) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
14	<p>Date: 06/30/2007 (631342) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate
15	<p>Date: 08/31/2007 (631344) CN601479488</p> <p>Self Report? YES</p> <p>Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)</p> <p>Description: Failure to meet the limit for one or more permit parameter</p>	Classification: Moderate

16	Date: 02/29/2008	(695979)	CN601479488		
	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			
17	Date: 04/30/2008	(695981)	CN601479488		
	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			
18	Date: 05/31/2008	(717589)	CN601479488		
	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			
19	Date: 08/29/2008	(688041)	CN601479488		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES PERMIT			
	Description:	Failure to maintain compliance with the permitted effluent limits.			
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) TPDES PERMIT			
	Description:	Failure to maintain and make available the chlorine meter's calibration records during the investigation.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 319, SubChapter A 319.11(b) TPDES PERMIT			
	Description:	Failure to analyze samples within the required holding times.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 319, SubChapter A 319.11(a) 30 TAC Chapter 319, SubChapter A 319.11(b)			
	Description:	Failure to perform the manganese oxide correction for each total chlorine residual analysis.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES PERMIT			
	Description:	Failure to properly notify the Commission of noncompliances as required.			
	Self Report?	NO		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)			
	Description:	Failure to prevent the discharge(s) of excessive solids to water in the state.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.1 TPDES PERMIT			
	Description:	Failure to properly maintain the wastewater treatment plant.			

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
CREEK PARK CORPORATION;
RN102915691**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1372-MWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Creek Park Corporation ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates a wastewater treatment plant and wastewater collection system located approximately one mile east of County Road 600 and approximately 1.5 miles south of the intersection of County Road 600 and Farm-to-Market Road 917 in Johnson County, Texas (the "Facility"). Respondent discharged waste from the Facility into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.056 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of four thousand seven hundred fifty dollars (\$4,750.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred seventy-five

dollars (\$375.00) of the administrative penalty. The remaining amount of four thousand three hundred seventy-five dollars (\$4,375.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred twenty-five dollars (\$125.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that Respondent submitted documentation to TCEQ on July 27, 2009, regarding the following corrective measures at the Facility:
 - a. On or about June 22, 2009, Respondent installed additional aerators on the aeration basin and leveled the saw tooth weir, pumped sludge from the chlorination chamber, purchased a sludge instrument to measure sludge on a weekly basis, and began recording the results in the operator log;
 - b. On or about July 2, 2009, Respondent purchased a dissolved oxygen ("DO") meter to analyze field measurements within the required holding times; and
 - c. On or about July 29, 2009, Respondent removed and disposed of the sludge which had accumulated near the outfall and the nearby tributary.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on June 18, 2009, a TCEQ DFW Regional Office investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0013868001, Operational Requirements No. 1, by failing to ensure that the Facility and all of its systems of collection, treatment and disposal are properly operated and maintained. Specifically, the aeration basin contained a dead zone where mixing was inadequate, a significant amount of sludge bulking was noted in the clarifier, the clarifier weir was not leveled, and bulking sludge was observed in the chlorine contact basin;
 - b. 30 TEX. ADMIN. CODE § 319.11(b) and TPDES Permit No. WQ0013868001, Operational Requirements No. 2, by failing to analyze field measurements within the required holding times. Specifically, the distance and travel time to the laboratory from the Facility caused the holding time for dissolved oxygen ("DO") to exceed the maximum 15 minutes; and
 - c. 30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121, and TPDES Permit No. WQ0013868001, Permit Condition No. 2.g. by failing to prevent the discharge of sludge to the water in the state. Specifically, an accumulation of sludge and black water from the outfall was present in receiving waters, including Walnut Creek and an unnamed tributary of Walnut Creek.
2. Respondent received notice of the violations on or about August 16, 2009.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations not addressed in this Agreed Order.
2. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Creek Park Corporation, Docket No. 2009-1372-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
3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process that the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

10/15/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Creek Park Corporation, 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 any of the Ordering Provisions in this Agreed Order, including failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature-C.T. Chien
President, Creek Park Corporation

9/10/2010

Date