

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0687-IWD-E **TCEQ ID:** RN102163128 **CASE NO.:** 39592  
**RESPONDENT NAME:** Knife River Corporation - South

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER  | <input type="checkbox"/> FINDINGS AGREED ORDER              | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER  | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER   | <input type="checkbox"/> EMERGENCY ORDER                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <input type="checkbox"/> AIR   | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input type="checkbox"/> PUBLIC WATER SUPPLY   | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input checked="" type="checkbox"/> WATER QUALITY  | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE   | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Quality Concrete, 2155 North 7th Street, Beaumont, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Ready-mix concrete plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 30, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Doug Almond, SETX President, Knife River Corporation - South, P.O. Box 1800, Waco, Texas 76703<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

| VIOLATION SUMMARY CHART:  |   |   |
|---|---|---|
| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 7, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 22, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with permit effluent limits for pH and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110868, Part III, Permit Requirements, Section A].</p> <p>2) Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2009 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), and 319.7(d) and TPDES General Permit No. TXG110868, Part IV, Standard Permit Conditions 7(f)].</p> | <p><b>Total Assessed:</b> \$4,092</p> <p><b>Total Deferred:</b> \$818<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,274</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on May 7, 2010, the Respondent submitted the DMR for the monitoring period ending January 31, 2009.</p> <p><b>Ordering Provisions:</b></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 reporting requirements are met; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.; and</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES General Permit No. TXG110868, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p> |

Additional ID No(s): TPDES General Permit No. TXG110868



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

|              |                     |             |                  |             |                |  |
|--------------|---------------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned PCW</b> | 26-Apr-2010 | <b>Screening</b> | 29-Apr-2010 | <b>EPA Due</b> |  |
|--------------|---------------------|-------------|------------------|-------------|----------------|--|

**RESPONDENT/FACILITY INFORMATION**

|                             |                                 |                           |       |
|-----------------------------|---------------------------------|---------------------------|-------|
| <b>Respondent</b>           | Knife River Corporation - South |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN102163128                     |                           |       |
| <b>Facility/Site Region</b> | 10-Beaumont                     | <b>Major/Minor Source</b> | Minor |

**CASE INFORMATION**

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 39592           | <b>No. of Violations</b>     | 2                  |
| <b>Docket No.</b>                      | 2010-0687-IWD-E | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Water Quality   | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                 | <b>Enf. Coordinator</b>      | Merrilee Hupp      |
|  |                 | <b>EC's Team</b>             | Enforcement Team 1 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0             | <b>Maximum</b>               | \$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**

|   |                                       |  |
|---|---------------------------------------|--|
| <small>Total EB Amounts</small>           | <input type="text" value="\$6,291"/>  | <small>*Capped at the Total EB \$ Amount</small> |
| <small>Approx. Cost of Compliance</small> | <input type="text" value="\$75,275"/> |  |

**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 29-Apr-2010

Docket No. 2010-0687-IWD-E

PCW

Respondent Knife River Corporation - South

Policy Revision 2 (September 2002)

Case ID No. 39592

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102163128

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

## Compliance History Worksheet

## &gt;&gt; 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)  | 8                 | 40%     |
|                               | Other written NOVs   | 1                 | 2%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments 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%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 42%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The Respondent received one NOV without same or similar violations and self-reported eight effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 42%

|   |   |  |                                 |                                     |
|---|---|--|---------------------------------|-------------------------------------|
| <b>Screening Date</b> 29-Apr-2010                               | <b>Docket No.</b> 2010-0687-IWD-E   | <b>PCW</b>   |                                 |                                     |
| <b>Respondent</b> Knife River Corporation - South               | <small>Policy Revision 2 (September 2002)</small>   |  |                                 |                                     |
| <b>Case ID No.</b> 39592  | <small>PCW Revision October 30, 2008</small>  |  |                                 |                                     |
| <b>Reg. Ent. Reference No.</b> RN102183128                      |   |  |                                 |                                     |
| <b>Media [Statute]</b> Water Quality                            |   |  |                                 |                                     |
| <b>Enf. Coordinator</b> Merrilee Hupp                           |   |  |                                 |                                     |
| <b>Violation Number</b> 1                                       |   |  |                                 |                                     |
| <b>Rule Cite(s)</b>   | Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110868, Part III, Permit Requirements, Section A.            |  |                                 |                                     |
| <b>Violation Description</b>                                    | Failed to comply with permit effluent limits, as documented during a record review conducted on April 7, 2010 and shown in the attached effluent violation table.   |  |                                 |                                     |
| <b>Base Penalty</b>   |   | \$10,000   |                                 |                                     |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b> |   |  |                                 |                                     |
| <b>OR</b>   | <b>Harm</b>   |  |                                 |                                     |
|   | Release   | Major  | Moderate                        | Minor                               |
|   | Actual  | <input type="checkbox"/>   | <input type="checkbox"/>        | <input checked="" type="checkbox"/> |
|   | Potential   | <input type="checkbox"/>   | <input type="checkbox"/>        | <input type="checkbox"/>            |
|   |   | <b>Percent</b>   | 10%                             |                                     |
| <b>&gt;&gt; Programmatic Matrix</b>                             |   |  |                                 |                                     |
|   | Falsification   | Major  | Moderate                        | Minor                               |
|   | <input type="checkbox"/>  | <input type="checkbox"/>   | <input type="checkbox"/>        | <input type="checkbox"/>            |
|   |   | <b>Percent</b>   | 0%                              |                                     |
| <b>Matrix Notes</b>   | 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 as a result of the violation. |  |                                 |                                     |
| <b>Adjustment</b>   |   | \$9,000  |                                 |                                     |
|   |   | \$1,000  |                                 |                                     |
| <b>Violation Events</b>   |   |  |                                 |                                     |
| <b>Number of Violation Events</b>                               |   | 3  | <b>Number of violation days</b> |                                     |
|   |   | 215  |                                 |                                     |
| <small>mark only one with an x</small>                          | daily   | <input type="checkbox"/>   | <b>Violation Base Penalty</b>   |                                     |
|   | weekly  | <input type="checkbox"/>   |                                 |                                     |
|   | monthly   | <input type="checkbox"/>   |                                 |                                     |
|   | quarterly   | <input checked="" type="checkbox"/>                                |                                 |                                     |
|   | semiannual  | <input type="checkbox"/>   |                                 |                                     |
|   | annual  | <input type="checkbox"/>   |                                 |                                     |
|   | single event  | <input type="checkbox"/>   |                                 |                                     |
| Three quarterly events are recommended.                         |   |  | \$3,000                         |                                     |
| <b>Good Faith Efforts to Comply</b>                             |   | 0.0% Reduction   | \$0                             |                                     |
|   |   | <small>Before NOV      NOV to EDRP/Settlement</small>              |                                 |                                     |
| Extraordinary   | <input type="checkbox"/>  | <input type="checkbox"/>   |                                 |                                     |
| Ordinary  | <input type="checkbox"/>  | <input type="checkbox"/>   |                                 |                                     |
| N/A   | <input checked="" type="checkbox"/>   | <small>(mark with x)</small>                                       |                                 |                                     |
| <b>Notes</b>  | The Respondent does not meet the good faith criteria for this violation.  |  |                                 |                                     |
| <b>Violation Subtotal</b>                                       |   | \$3,000  |                                 |                                     |
| <b>Economic Benefit (EB) for this violation</b>                 |   | <b>Statutory Limit Test</b>  |                                 |                                     |
| <b>Estimated EB Amount</b>                                      | \$6,267   | <b>Violation Final Penalty Total</b>                               | \$3,960                         |                                     |
|   |   | <b>This violation Final Assessed Penalty (adjusted for limits)</b> | \$3,960                         |                                     |

## Economic Benefit Worksheet

**Respondent:** Knife River Corporation - South  
**Case ID No.:** 39592  
**Reg. Ent. Reference No.:** RN102163128  
**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)        | \$75,000 | 31-May-2009 | 31-Jan-2011 | 1.67 | \$6,287 | n/a | \$6,287 |

Notes for DELAYED costs

Estimated cost to construct a large settlement basin and tank to bring total suspended solids within permitted levels and to control pH levels, as well as to prevent the discharge of noncompliant effluent by using a closed loop, recycling system. Date required is the initial month of noncompliance. Final date is the anticipated 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

\$75,000

**TOTAL**

\$6,287

|   |   |   |   |
|---|---|---|---|
| <b>Screening Date:</b> 29-Apr-2010                                  | <b>Docket No.:</b> 2010-0687-IWD-E  | <b>PCW</b>  |   |
| <b>Respondent:</b> Knife River Corporation - South                  |   | <small>Policy Revision 2 (September 2002)</small>         |   |
| <b>Case ID No.:</b> 39592   |   | <small>PCW Revision October 30, 2008</small>              |   |
| <b>Reg. Ent. Reference No.:</b> RN102163128                         |   |   |   |
| <b>Media [Statute]:</b> Water Quality                               |   |   |   |
| <b>Enf. Coordinator:</b> Merrilee Hupp                              |   |   |   |
| <b>Violation Number:</b>  | 2   |   |   |
| <b>Rule Cite(s):</b>  | 30 Tex. Admin. Code §§ 305.125(1), 305.125(17), and 319.7(d) and TPDES General Permit No. TXG110868, Part IV, Standard Permit Conditions 7(f)                                       |   |   |
| <b>Violation Description:</b>                                       | Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2009, as documented during a record review conducted on April 7, 2010. |   |   |
| <b>Base Penalty:</b>  |   | \$10,000  |   |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>     |   |   |   |
| OR  | <b>Release</b>  | <b>Harm</b>   |   |
|   |   | Major    Moderate    Minor                                |   |
|   | Actual  |   | <b>Percent</b> <input style="width: 50px;" type="text" value="0%"/>                     |
|   | Potential   |   |   |
| <b>&gt;&gt; Programmatic Matrix</b>                                 |   |   |   |
|   | Falsification   | Major    Moderate    Minor                                |   |
|   |   |   | <b>Percent</b> <input style="width: 50px;" type="text" value="1%"/>                     |
|   |   |   |   |
| <b>Matrix Notes</b>   | Over 70% of the requirement was met.  |   |   |
| <b>Adjustment:</b>  |   | \$9,900   |   |
|   |   | \$100   |   |
| <b>Violation Events</b>   |   |   |   |
| <b>Number of Violation Events:</b>                                  |   | 1   | <b>Number of violation days:</b>  |
|   |   | 23  |   |
| <small>mark only one with an x</small>                              | daily   |   | <b>Violation Base Penalty:</b> <input style="width: 100px;" type="text" value="\$100"/> |
|   | weekly  |   |   |
|   | monthly   |   |   |
|   | quarterly   |   |   |
|   | semiannual  |   |   |
|   | annual  |   |   |
|   | single event  |   |   |
| One single event is recommended.                                    |   |   |   |
| <b>Good Faith Efforts to Comply</b>                                 |   | 0.0% Reduction  | \$0   |
|   |   | <small>Before NOV    NOV to EDRP/Settlement Offer</small> |   |
| Extraordinary   |   |   |   |
| Ordinary  |   |   |   |
| N/A   |   |   |   |
| Notes   | The Respondent does not meet the good faith criteria for this violation.  |   |   |
| <b>Violation Subtotal:</b>  |   | \$100   |   |
| <b>Economic Benefit (EB) for this violation</b>                     |   | <b>Statutory Limit Test</b>                               |   |
| <b>Estimated EB Amount:</b>   | \$24  | <b>Violation Final Penalty Total:</b>                     | \$132   |
| <b>This violation Final Assessed Penalty (adjusted for limits):</b> |   | \$132   |   |

## Economic Benefit Worksheet

**Respondent:** Knife River Corporation - South  
**Case ID No.:** 39592  
**Reg. Ent. Reference No.:** RN102163128  
**Media:** Water Quality  
**Violation No.:** 2

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 16                           |

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

### Delayed Costs

| Item Description         | Item Cost | Date Required | Final Date  | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment                |           |               |             | 0.00 | \$0            | \$0           | \$0       |
| Buildings                |           |               |             | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |             | 0.00 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |             | 0.00 | \$0            | \$0           | \$0       |
| Land                     |           |               |             | 0.00 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |             | 0.00 | \$0            | n/a           | \$0       |
| Training/Sampling        | \$250     | 20-Feb-2009   | 30-Nov-2010 | 1.78 | \$22           | n/a           | \$22      |
| Remediation/Disposal     |           |               |             | 0.00 | \$0            | n/a           | \$0       |
| Permit Costs             | \$25      | 20-Feb-2009   | 7-May-2010  | 1.21 | \$2            | n/a           | \$2       |
| Other (as needed)        |           |               |             | 0.00 | \$0            | n/a           | \$0       |

**Notes for DELAYED costs:** Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are met (\$250) and to submit the DMR. Date required is the date the DMR was due. Final date is the date the DMR was submitted (May 7, 2010) and expected completion date for the training.

### Avoided Costs

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

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

**Notes for AVOIDED costs:**

Approx. Cost of Compliance    \$275    **TOTAL**    \$24

Respondent: Knife River Corporation - South  
TPDES General Permit No. TXG110868  
Docket No. 2010-0687-IWD-E

Effluent Violation Table

| Month/Year    | Maximum pH<br>(Standard Units) | Daily Maximum<br>TSS Concentration<br>(milligrams/liter) |
|---------------|--------------------------------|--|
|               | limit = 9.0                    | limit = 65   |
| May 2009      | 9.65                           | c  |
| June 2009     | c                              | 133  |
| July 2009     | 10.25                          | 182  |
| August 2009   | 9.68                           | c  |
| October 2009  | 9.07                           | 77   |
| November 2009 | 9.83                           | 196  |
| December 2009 | 9.83                           | 196  |

c: compliant

TSS: total suspended solids



# Compliance History Report

|   |  |                         |                         |
|---|--|-------------------------|-------------------------|
| Customer/Respondent/Owner-Operator:   | CN603201740 Knife River Corporation - South          | Classification: AVERAGE | Rating: 2.56            |
| Regulated Entity:   | RN102163128 QUALITY CONCRETE                         | Classification: AVERAGE | Site Rating: 0.67       |
| ID Number(s):   | AIR NEW SOURCE PERMITS<br>WASTE WATER GENERAL PERMIT | REGISTRATION<br>PERMIT  | 52244<br>TXG110868      |
| Location:   | 2165 N 7TH ST, BEAUMONT, JEFFERSON CO., TX           |                         |                         |
| TCEQ Region:  | REGION 10 - BEAUMONT                                 |                         |                         |
| Date Compliance History Prepared:   | April 28, 2010                                       |                         |                         |
| Agency Decision Requiring Compliance History:   | Enforcement  |                         |                         |
| Compliance Period:  | April 28, 2005 to April 28, 2010                     |                         |                         |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |  |                         |                         |
| Name:   | <u>Merrilee Hupp</u>                                 | Phone:                  | <u>512 - 239 - 4490</u> |

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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.

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

|    |            |          |
|----|------------|----------|
| 1  | 10/20/2008 | (720366) |
| 2  | 12/23/2008 | (735186) |
| 3  | 12/23/2008 | (735187) |
| 4  | 02/03/2009 | (758495) |
| 5  | 02/03/2009 | (758496) |
| 6  | 02/05/2009 | (722378) |
| 7  | 03/20/2009 | (758493) |
| 8  | 04/20/2009 | (758494) |
| 9  | 05/13/2009 | (774675) |
| 10 | 05/20/2009 | (774673) |
| 11 | 06/12/2009 | (774674) |
| 12 | 04/23/2010 | (798559) |

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

|              |  |                 |          |
|--------------|--|-----------------|----------|
| Date:        | 07/18/2008 (682497)  | CN603201740     |          |
| Self Report? | NO   | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 101, SubChapter A 101.5<br>5C THSC Chapter 382 382.085(b)                 |                 |          |
| Description: | Failure to prevent the creation of a traffic hazard.<br>EIC B18 MOD(2)(G)                |                 |          |
|              |  |                 |          |
| Date:        | 10/31/2008 (735188)  | CN603201740     |          |
| Self Report? | YES  | Classification: | Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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 (774674)  | CN603201740     |          |

|              |            |  |                 |          |
|--------------|------------|--|-----------------|----------|
| Self Report? | YES        |  | Classification: | Moderate |
| Citation:    |            | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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 |  | CN603201740     |          |
| Self Report? | YES        |  | Classification: | Moderate |
| Citation:    |            | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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 |  | CN603201740     |          |
| Self Report? | YES        |  | Classification: | Moderate |
| Citation:    |            | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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 |  | CN603201740     |          |
| Self Report? | YES        |  | Classification: | Moderate |
| Citation:    |            | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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 |  | CN603201740     |          |
| Self Report? | YES        |  | Classification: | Moderate |
| Citation:    |            | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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 |  | CN603201740     |          |
| Self Report? | YES        |  | Classification: | Moderate |
| Citation:    |            | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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 |  | CN603201740     |          |
| Self Report? | YES        |  | Classification: | Moderate |
| Citation:    |            | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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  
KNIFE RIVER CORPORATION -  
SOUTH  
RN102163128

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2010-0687-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 Knife River Corporation - South ("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 ready-mix concrete plant located at 2155 North 7<sup>th</sup> Street in Beaumont, Jefferson 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 27, 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 Four Thousand Ninety-Two Dollars (\$4,092) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Two Hundred Seventy-Four Dollars (\$3,274) of the

- administrative penalty and Eight Hundred Eighteen Dollars (\$818) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  9. The Executive Director recognizes that on May 7, 2010, the Respondent submitted the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2009.
  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 permit effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110868, Part III, Permit Requirements, Section A, as documented during a record review conducted on April 7, 2010 and shown in the table below:

| Month/Year    | Maximum pH<br>(Standard Units)<br>limit = 9.0 | Daily Maximum<br>TSS Concentration<br>(milligrams/liter)<br>limit = 65 |
|---------------|---|--|
| May 2009      | 9.65  | c  |
| June 2009     | c   | 133  |
| July 2009     | 10.25   | 182  |
| August 2009   | 9.68  | c  |
| October 2009  | 9.07  | 77   |
| November 2009 | 9.83  | 196  |
| December 2009 | 9.83  | 196  |

c: compliant

TSS: total suspended solids

2. Failed to timely submit the DMR for the monitoring period ending January 31, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), and 319.7(d) and TPDES General Permit No. TXG110868, Part IV, Standard Permit Conditions 7(f), as documented during a record review conducted on April 7, 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: Knife River Corporation - South, Docket No. 2010-0687-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 reporting requirements are met, pursuant to 30 TEX. ADMIN. CODE § 319.7(d) and TPDES General Permit No. TXG110868, Part IV, Standard Permit Conditions 7(f);
  - 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.c below; and
  - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES General Permit No. TXG110868, 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my

knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Fwy.  
Beaumont, TX 77703-1830

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

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Knife River Corporation - South  
DOCKET NO. 2010-0687-IWD-E  
Page 6

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Sadler  
\_\_\_\_\_  
For the Executive Director

9/9/2010  
\_\_\_\_\_  
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.

Doug Almond  
\_\_\_\_\_  
Signature

9/25/10  
\_\_\_\_\_  
Date

Doug Almond  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Knife River Corporation - South

SETX - President  
\_\_\_\_\_  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.