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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0812-MWD-E **TCEQ ID:** RN102184777 **CASE NO.:** 39712
RESPONDENT NAME: Martin Realty & Land, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Timerland Wastewater Treatment Facility, approximately 1.2 miles east-northeast of the intersection of Portland Road and Farm-to-Market Road 1314 and 2.5 miles northwest of the intersection of Farm-to-Market Road 1314 and United States Highway 59, Montgomery County</p> <p>TYPE OF OPERATION: Domestic wastewater system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 8, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Tom A. Martin, President, Martin Realty & Land, Inc., P.O. Box 603, Porter, Texas 77365 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 1, 2010</p> <p>Date of NOV/NOE Relating to this Case: May 14, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failed to comply with permitted effluent limits for ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014081001, Interim I Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to submit a complete sludge report for the monitoring period ending July 31, 2009. Specifically, the Respondent failed to include the data for PCBs annual maximum concentration in the sludge, and toxicity characteristic leaching procedure pass or fail status [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014081001, Sludge Provisions].</p> <p>3) Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending September 30, 2009. Specifically, the DMR was due by the 20th day of October 2009 and was submitted on June 4, 2010 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014081001, Monitoring and Reporting Requirements No. 1].</p> <p>4) Failed to submit the DMR for the monitoring period ending April 30,</p>	<p>Total Assessed: \$6,124</p> <p>Total Deferred: \$1,224 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,900</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By January 31, 2010, the Respondent returned to compliance with permitted effluent limits by fixing electrical malfunctions in the lift station and replacing broken airlines and diffusers in the aeration basin; and</p> <p>b. On June 4, 2010, the Respondent submitted the revised sludge report to include data for polychlorinated biphenyls and toxicity characteristic leaching procedure pass or fail status and the DMR for the monitoring period ending September 30, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports and DMRs;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit the DMR for the monitoring period ending April 30, 2009; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. and b.</p>

2009 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014081001, Monitoring and Reporting Requirements No. 1].		
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Additional ID No(s): WQ0014081001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-May-2010	Screening	19-May-2010	EPA Due	
	PCW	25-May-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Martin Realty & Land, Inc.		
Reg. Ent. Ref. No.	RN102184777		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39712	No. of Violations	4
Docket No.	2010-0812-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jeremy Escobar
		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 \$5,200

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 37.0% Enhancement Subtotals 2, 3, & 7 \$1,924

Notes: The penalty is enhanced due to six self-reported effluent violations, one NOV with same or similar violations to the ones cited in this action, and one NOV with dissimilar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$1,000

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$253
Approx. Cost of Compliance	\$8,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$6,124

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$6,124

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$6,124

DEFERRAL 20.0% Reduction Adjustment -\$1,224

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$4,900

Screening Date 19-May-2010

Docket No: 2010-0812-MWD-E

PCW

Respondent Marlin Realty & Land, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39712

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184777

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	7	35%
	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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

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) 37%

>> 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 penalty is enhanced due to six self-reported effluent violations, one NOV with same or similar violations to the ones cited in this action, and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 19-May-2010

Docket No. 2010-0812-MWD-E

PCW

Respondent: Martin Realty & Land, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39712

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184777

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014081001, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented in a record review conducted on April 1, 2010, and depicted in the table attached.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

122 Number of violation days

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,000

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

Notes: The Respondent returned to compliance on January 31, 2010.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$348

Violation Final Penalty Total \$4,480

This violation Final Assessed Penalty (adjusted for limits) \$4,480

Economic Benefit Worksheet

Respondent: Martin Realty & Land, Inc.

Case ID No.: 39712

Reg. Ent. Reference No.: RN102184777

Media: Water Quality

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$8,300	31-Mar-2009	31-Jan-2010	0.84	\$348	n/a	\$348

Notes for DELAYED costs

Cost to fix electrical malfunctions in a lift station and to replace broken airlines and diffusers in the aeration basin. Date required is the first date of non-compliance. The final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,300

TOTAL

\$348

Screening Date 19-May-2010

Docket No. 2010-0812-MWD-E

PCW

Respondent Martin Realty & Land, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39712

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184777

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014081001, Sludge Provisions.

Violation Description Failed to submit a complete sludge report for the monitoring period ending July 31, 2009, as documented in a record review conducted on April 1, 2010. Specifically, the Respondent failed to include the data for polychlorinated biphenyls annual maximum concentration in the sludge and toxicity characteristic leaching procedure pass or fail status.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1%

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

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$137

This violation Final Assessed Penalty (adjusted for limits) \$137

Economic Benefit Worksheet

Respondent: Martin Realty & Land, Inc.
Case ID No.: 39712
Reg. Ent. Reference No.: RN102184777
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	1-Sep-2009	4-Jun-2010	0.76	\$4	n/a	\$4
Training/Sampling	\$100	1-Apr-2010	8-Feb-2011	0.86	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit the completed annual sludge report and update the facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished. Dates required are the date the sludge report was due and the date of the record review, respectively. The final dates are the date the revised sludge report was received and the expected date of compliance for the training.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$8

Screening Date 19-May-2010

Docket No. 2010-0812-MWD-E

PCW

Respondent Martin Realty & Land, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39712

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184777

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0014081001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending September 30, 2009, as documented in a record review conducted on April 1, 2010. Specifically, the DMR was due by the 20th day of October 2009 and was submitted on June 4, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			X	1%

Matrix Notes

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

Adjustment \$9,800

\$100

Violation Events

Number of Violation Events 1 Number of violation days 231

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$137

This violation Final Assessed Penalty (adjusted for limits) \$137

Economic Benefit Worksheet

Respondent: Martin Realty & Land, Inc.

Case ID No.: 39712

Reg. Ent. Reference No.: RN102184777

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation 2.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 19-May-2010

Docket No. 2010-0812-MWD-E

PCW

Respondent Martin Realty & Land, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39712

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184777

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ00140B1001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit the DMR for the monitoring period ending April 30, 2009, as documented in a record review conducted on April 1, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

384 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,370

This violation Final Assessed Penalty (adjusted for limits) \$1,370

Economic Benefit Worksheet

Respondent: Martin Realty & Land, Inc.
Case ID No.: 39712
Reg. Ent. Reference No.: RN102184777
Media: Water Quality
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

See economic benefit for violation 2.

Avoided Costs

ANNUALIZE [4] avoided costs before entering item (except for one-time avoided costs)

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Effluent Violation Table

Martin Realty & Land, Inc.

Docket No. 2010-0812-MWD-E, TPDES Permit No. WQ0014081001

Case No. 39712

RN102184777

Permitted Effluent Limits	NH3-N Daily Avg. Conc. 3 mg/L	NH3-N Single Grab Conc. 15 mg/L
March 31, 2009	8.4	19.6
June 30, 2009	6.34	21
November 30, 2009	7.64	18.2
December 31, 2009	5.61	16.9

NH3-N = Ammonia Nitrogen	Avg. = Average	Conc. = Concentration	mg/L = Milligrams per Liter
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600577381	Martin Realty & Land, Inc.	Classification: AVERAGE	Rating: 1.20
Regulated Entity:	RN102184777	TIMERLAND WASTEWATER TREATMENT FACILITY	Classification: HIGH	Site Rating: 0.05
ID Number(s):	WASTEWATER	PERMIT		WQ0014081001
	WASTEWATER	PERMIT		TPDES0118311
	WASTEWATER	PERMIT		TX0118311
Location:	approximately 1.2 miles east-northeast of the intersection of Portland Road and Farm-to-Market Road 1314 and 2.5 miles northwest of the intersection of Farm-to-Market Road 1314 and United States Highway 59 in Montgomery County, Texas			

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: May 26, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 19, 2005 to May 19, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Jeremy Escobar Phone: (361) 825-3422

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: 9/1/2009 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	06/13/2005	(430753)
2	06/13/2005	(430754)
3	08/04/2005	(447447)
4	08/24/2005	(447448)
5	10/14/2005	(492251)
6	11/04/2005	(492252)
7	12/02/2005	(492253)
8	01/11/2006	(492254)
9	02/08/2006	(492255)
10	02/21/2006	(492250)
11	04/14/2006	(508161)
12	05/10/2006	(508162)
13	06/21/2006	(463829)
14	07/14/2006	(528403)
15	08/03/2006	(528404)
16	08/27/2006	(510005)
17	08/30/2006	(528405)
18	09/07/2006	(528400)
19	09/07/2006	(528401)
20	09/07/2006	(528402)
21	09/07/2006	(528406)
22	09/07/2006	(528407)
23	09/07/2006	(528408)
24	09/07/2006	(528409)
25	09/07/2006	(528410)

26	04/27/2007	(631083)
27	05/25/2007	(631084)
28	07/02/2007	(631085)
29	07/30/2007	(631086)
30	10/01/2007	(631088)
31	10/31/2007	(631089)
32	11/02/2007	(631087)
33	12/06/2007	(631090)
34	12/17/2007	(631091)
35	01/28/2008	(677223)
36	02/25/2008	(677222)
37	04/07/2008	(695885)
38	04/24/2008	(695886)
39	05/22/2008	(695887)
40	06/25/2008	(717473)
41	07/31/2008	(717474)
42	08/13/2008	(717475)
43	09/02/2008	(689410)
44	02/06/2009	(756057)
45	02/06/2009	(756058)
46	03/03/2009	(756056)
47	04/29/2009	(819281)
48	04/29/2009	(819282)
49	06/15/2009	(819283)
50	08/03/2009	(819284)
51	08/19/2009	(819285)
52	10/02/2009	(819286)
53	12/07/2009	(819287)
54	01/20/2010	(819288)
55	01/20/2010	(819289)
56	02/18/2010	(819280)
57	05/14/2010	(797998)

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

Date:	06/20/2006 (510005)	CN600577381	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Self-reporting Requirements PERMIT		
Description:	Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report monitoring results.		
Date:	09/02/2008 (689410)	CN600577381	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
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)		
Description:	Failure to accurately report effluent parameters on the Discharge Monitoring Reports (DMRs).		
Date:	12/31/2008 (756058)	CN600577381	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2009 (756056)	CN600577381	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2009 (819282)	CN600577381	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2009 (819284)	CN600577381	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		

Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2009 (819288) CN600577381
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 12/31/2009 (819289) CN600577381
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
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
MARTIN REALTY & LAND, INC.
RN102184777

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0812-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Martin Realty & Land, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment system located approximately 1.2 miles east-northeast of the intersection of Portland Road and Farm-to-Market Road 1314 and 2.5 miles northwest of the intersection of Farm-to-Market Road 1314 and United States Highway 59 in Montgomery County, Texas (the "Facility").
2. The Respondent has discharged municipal 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 May 19, 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 Six Thousand One Hundred Twenty-Four Dollars (\$6,124) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Nine Hundred Dollars (\$4,900) of the administrative penalty and One Thousand Two Hundred Twenty-Four Dollars (\$1,224) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By January 31, 2010, the Respondent returned to compliance with permitted effluent limits by fixing electrical malfunctions in the lift station and replacing broken airlines and diffusers in the aeration basin; and
 - b. On June 4, 2010, the Respondent submitted the revised sludge report to include data for polychlorinated biphenyls ("PCBs") and toxicity characteristic leaching procedure pass or fail status and the discharge monitoring report ("DMR") for the monitoring period ending September 30, 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 permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014081001, Interim I Effluent Limitations and Monitoring Requirements No. 1, as documented in a record review conducted on April 1, 2010, and depicted in the table below:

Effluent Violation Table		
Permitted Effluent Limits	NH3-N Daily Avg. Conc. 3 mg/L	NH3-N Single Grab Conc. 15 mg/L
March 31, 2009	8.34	19.6
June 30, 2009	6.34	21
November 30, 2009	7.64	18.2
December 31, 2009	5.61	16.9

NH3-N = Ammonia Nitrogen	Avg. = Average	Conc. = Concentration	mg/L = Milligrams per Liter
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2. Failed to submit a complete sludge report for the monitoring period ending July 31, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014081001, Sludge Provisions as documented during a record review conducted on April 1, 2010. Specifically, the Respondent failed to include the data for PCBs annual maximum concentration in the sludge, and toxicity characteristic leaching procedure pass or fail status.
3. Failed to timely submit the DMR for the monitoring period ending September 30, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014081001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on April 1, 2010. Specifically, the DMR was due by the 20th day of October 2009 and was submitted on June 4, 2010.
4. Failed to submit the DMR for the monitoring period ending April 30, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014081001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on April 1, 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: Martin Realty & Land, Inc., Docket No. 2010-0812-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports and DMRs, in accordance with TPDES Permit No. WQ0014081001;
 - b. Within 30 days after the effective date of this Agreed Order, submit the DMR for the monitoring period ending April 30, 2009; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall include supporting documentation to demonstrate compliance and be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

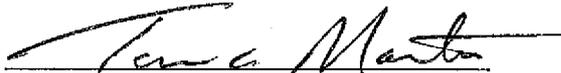
Date 10/11/2010

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.



Signature

Date 8/10/10

Name (Printed or typed)
Authorized Representative of
Martin Realty & Land, Inc.

Title President

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.