

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1420-AIR-E **TCEQ ID:** RN100214659 **CASE NO.:** 38294

**RESPONDENT NAME:** Clearstream Wastewater Systems, Incorporated

<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 checked="" 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 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> Silsbee Plastics, 2987 Old Evadale Road, Silsbee, Hardin County</p> <p><b>TYPE OF OPERATION:</b> Fiberglass manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 December 4, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Brady Grubbs, Vice President, Clearstream Wastewater Systems, Incorporated, P.O. Box 7568, Beaumont, Texas 77726  <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>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> June 25, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 21, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failure to submit a deviation report for each six-month period and an annual compliance certification for each 12-month period and submit them within 30 days after each respective period. Specifically, on April 21, 2009 an annual compliance certification was submitted for the period of February 13, 2008 to April 21, 2009, and a deviation report was submitted for the period of August 13, 2008 to April 21, 2009 [Air Permit No. O-01796, General Terms and Conditions, Air Permit No. 26245, General Condition No. 10, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B) and (2)(C), 122.146(1) and (2), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit a semiannual compliance report for 40 CODE OF FEDERAL REGULATIONS Part 63, Subpart WWW by January 31, 2009. Specifically, the semiannual compliance report for the July 1, 2008 to December 31, 2008 reporting period was due to be submitted by January 31, 2009, however, it was not submitted until April 21, 2009 [Air Permit No. O-01796, General Terms and Conditions, Air Permit No. 26245, General Condition No. 10, 40 CODE OF FEDERAL REGULATIONS § 63.5910(a) and (b)(4), 30 TEX. ADMIN. CODE §§ 113.1060 and 122.143(4), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$7,125</p> <p><b>Total Deferred:</b> \$1,425  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,700</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input 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 April 30, 2009, the Respondent completed implementation of a notification and tracking system designed to ensure that reports are submitted as required. The system included the development of a schedule of all required reports and the period for which each report is to cover, the appointment of responsible employees, and the development of an email notification system.</p>

Additional ID No(s): HF0034K



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	24-Aug-2009	<b>Screening</b>	2-Sep-2009	<b>EPA Due</b>	18-May-2010
	<b>PCW</b>	24-Aug-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Clearstream Wastewater Systems, Incorporated
<b>Reg. Ent. Ref. No.</b>	RN100214659
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38294	<b>No. of Violations</b>	2
<b>Docket No.</b>	2009-1420-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rebecca Johnson
		<b>EC's Team</b>	Enforcement Team 5
<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**

Total EB Amounts	\$3	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$500	

**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** 2-Sep-2009

**Docket No.** 2009-1420-AIR-E

**PCW**

**Respondent** Clearstream Wastewater Systems, Incorporated

Policy Revision 2 (September 2002)

**Case ID No.** 38294

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN100214659

**Media [Statute]** Air

**Enf. Coordinator** Rebecca Johnson

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

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

**Adjustment Percentage (Subtotal 2)** 20%

>> **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**

Penalty enhancement due to one agreed order with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

<b>Screening Date</b>	2-Sep-2009	<b>Docket No.</b>	2009-1420-AIR-E	<b>PCW</b>
<b>Respondent</b>	Clearstream Wastewater Systems, Incorporated			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	38294			PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b>	RN100214659			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Rebecca Johnson			

<b>Violation Number</b>	1
<b>Rule Cite(s)</b>	Air Permit No. 0-01786, General Terms and Conditions, Air Permit No. 26245, General Condition No. 10, 30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(B) and (2)(C); 122.146(1) and (2), and Tex. Health & Safety Code § 362.085(b)
<b>Violation Description</b>	Failed to submit deviation reports for each six-month period and an annual compliance certification for each 12-month period and submit them within 30 days after each respective period. Specifically, on April 21, 2009 an annual compliance certification was submitted for the period of February 13, 2008 to April 21, 2009, and a deviation report was submitted for the period of August 13, 2008 to April 21, 2009.
<b>Base Penalty</b>	\$10,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>				
	<b>Potential</b>				
				<b>Percent</b>	0%

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
		X			<b>Percent</b>
					25%

<b>Matrix Notes</b>	100% of the rule requirements were not met.
<b>Adjustment</b>	\$7,500

\$2,500

**Violation Events**

<b>Number of Violation Events</b>	2	<b>Number of violation days</b>	47
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	
<b>Violation Base Penalty</b>	\$5,000		

Two single events are recommended based on the two reports that were not properly submitted.

**Good Faith Efforts to Comply**      25.0% Reduction      \$1,250

	<b>Before NOV</b>	<b>NOV to EDPRP/Settlement Offer</b>
<b>Extraordinary</b>		
<b>Ordinary</b>	X	
<b>N/A</b>		(mark with x)
<b>Notes</b>	The Respondent completed corrective actions on April 30, 2009, which was prior to the NOE issued on August 21, 2009.	
<b>Violation Subtotal</b>	\$3,750	

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

<b>Estimated EB Amount</b>	\$3	<b>Violation Final Penalty Total</b>	\$4,750
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$4,750	

### Economic Benefit Worksheet

**Respondent** Clearstream Wastewater Systems, Incorporated  
**Case ID No.** 38294  
**Reg. Ent. Reference No.** RN100214659  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

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			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)	\$500	14-Mar-2009	30-Apr-2009	0.13	\$3	n/a

Notes for DELAYED costs

Estimated cost to implement a notification and tracking system designed to ensure that reports are submitted as required. The date required is the earliest date of noncompliance. The final date is the date corrective actions were completed.

**Avoided Costs**

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

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

\$500

TOTAL

\$3

<b>Screening Date:</b> 2-Sep-2009	<b>Docket No.:</b> 2009-1420-AIR-E	<b>PCW</b>														
<b>Respondent:</b> Clearstream Wastewater Systems, Incorporated	<small>Policy Revision 2 (September 2002)</small>															
<b>Case ID No.:</b> 38294	<small>PCW Revision October 30, 2008</small>															
<b>Reg. Ent. Reference No.:</b> RN100214859																
<b>Media [Statute]:</b> Air																
<b>Enf. Coordinator:</b> Rebecca Johnson																
<b>Violation Number:</b> 2																
<b>Rule Cite(s):</b>	Air Permit No. 0-01798, General Terms and Conditions, Air Permit No. 26245, General Condition No. 10, 40 Code of Federal Regulations § 63.6910(a) and (b)(4), 30 Tex. Admin. Code §§ 113.1060 and 122.143(4), and Tex. Health & Safety Code § 382.085(b)															
<b>Violation Description:</b>	Failed to submit a semiannual compliance report for 40 Code of Federal Regulations Part 63, Subpart WWWW by January 31, 2009. Specifically, the semiannual compliance report for the July 1, 2008 to December 31, 2008 reporting period was due to be submitted by January 31, 2009, however, it was not submitted until April 21, 2009.															
<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="text"/>	<input type="text"/>														
Potential	<input type="text"/>	<input type="text"/>														
	<b>Percent</b>	<input type="text" value="0%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																
	<b>Falsification</b>	Major    Moderate    Minor														
	<input type="text"/>	<input type="text" value="X"/> <input type="text"/> <input type="text"/>														
	<b>Percent</b>	<input type="text" value="26%"/>														
<b>Matrix Notes:</b>	100% of the rule requirements were not met.															
<b>Adjustment:</b>	\$7,500															
<b>\$2,500</b>																
<b>Violation Events</b>																
<b>Number of Violation Events:</b>	<input type="text" value="1"/>	<b>Number of violation days:</b> <input type="text" value="88"/>														
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input checked="" type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="text"/>	<b>Violation Base Penalty:</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input checked="" type="text"/>															
One single event is recommended based on the one report that was not properly submitted.																
<b>Good Faith Efforts to Comply</b>																
	<b>25.0% Reduction</b>	<b>\$625</b>														
	Before NOV    NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input checked="" type="text"/>	<input type="text"/>														
N/A	<small>(mark with x)</small>															
<b>Notes:</b>	The Respondent completed corrective actions on April 30, 2009, which was prior to the NOE issued on August 21, 2009.															
<b>Violation Subtotal:</b>	<b>\$1,875</b>															
<b>Economic Benefit (EB) for this violation</b>																
<b>Estimated EB Amount:</b>	<input type="text" value="\$0"/>															
<b>Statutory Limit Test</b>																
<b>Violation Final Penalty Total:</b>	<b>\$2,375</b>															
<b>This violation Final Assessed Penalty (adjusted for limits):</b> <input type="text" value="\$2,375"/>																

### Economic Benefit Worksheet

**Respondent:** Clearstream Wastewater Systems, Incorporated  
**Case ID No.:** 38294  
**Reg. Ent. Reference No.:** RN100214659  
**Media:** Air  
**Violation No.:** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

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

Notes for DELAYED costs

The Economic Benefit for this violation is included in Violation No. 1.

**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

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601068992 Clearstream Wastewater Systems, Classification: AVERAGE Rating: 8.03  
 Incorporated  
 Regulated Entity: RN100214659 SILSBEE PLASTICS Classification: AVERAGE Site Rating: 5.63

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HF0034K
	AIR OPERATING PERMITS	PERMIT	1796
	AIR NEW SOURCE PERMITS	PERMIT	11967
	AIR NEW SOURCE PERMITS	PERMIT	13602
	AIR NEW SOURCE PERMITS	PERMIT	26245
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HF0034K
	AIR NEW SOURCE PERMITS	AFS NUM	4819900034
	AIR NEW SOURCE PERMITS	REGISTRATION	76543
	STORMWATER	PERMIT	TXRNEU395
	STORMWATER	PERMIT	TXRNEV365

Location: 2987 OLD EVADALE RD, SILSBEE, TX, 77656

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: August 26, 2009

Agency Decision-Requiring Compliance History: Enforcement

Compliance Period: August 26, 2004 to August 26, 2009

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

Name: Rebecca Johnson Phone: (361) 825-3420

## 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: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

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

Effective Date: 11/17/2008

ADMINORDER 2008-0930-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 30 TAC Chapter 122, SubChapter B 122.146(5)(D)  
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: 1796 OP  
 26245 OP

Description: Failed to timely submit two deviation reports ("DRs") and properly certify a corresponding annual compliance certification ("ACC"). Specifically, the Respondent reported three deviations on the current ACC (for the period ending February 8, 2008) which should have been reported in a DR and ACC for the period ending February 8, 2007 and a DR for the period ending August 8, 2007.

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	10/13/2004	(292644)
2	07/12/2005	(395826)
3	05/08/2006	(465252)
4	04/20/2007	(542591)
5	05/29/2008	(641028)
6	10/22/2008	(518810)
7	08/21/2009	(759606)

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

N/A

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  
CLEARSTREAM WASTEWATER  
SYSTEMS, INCORPORATED  
RN100214659**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-1420-AIR-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 Clearstream Wastewater Systems, Incorporated ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 fiberglass manufacturing plant at 2987 Old Evadale Road in Silsbee, Hardin County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 August 26, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand One Hundred Twenty-Five Dollars (\$7,125) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Five Thousand Seven Hundred Dollars (\$5,700) of the administrative penalty and One Thousand Four Hundred Twenty-Five Dollars (\$1,425) 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 April 30, 2009, the Respondent completed implementation of a notification and tracking system designed to ensure that reports are submitted as required. The system included the development of a schedule of all required reports and the period for which each report is to cover, the appointment of responsible employees, and the development of an email notification system.
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 Plant, the Respondent is alleged to have:

1. Failed to submit a deviation report for each six-month period and an annual compliance certification for each 12-month period and submit them within 30 days after each respective period, in violation of Air Permit No. O-01796, General Terms and Conditions, Air Permit No. 26245, General Condition No. 10, 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(B) and (2)(C), 122.146(1) and (2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 25, 2009. Specifically, on April 21, 2009 an annual compliance certification was submitted for the period of February 13, 2008 to April 21, 2009, and a deviation report was submitted for the period of August 13, 2008 to April 21, 2009.
2. Failed to submit a semiannual compliance report for 40 CODE OF FEDERAL REGULATIONS Part 63, Subpart WWW by January 31, 2009, in violation of Air Permit No. O-01796, General Terms and Conditions, Air Permit No. 26245, General Condition No. 10, 40 CODE OF FEDERAL

REGULATIONS § 63.5910(a) and (b)(4), 30 TEX. ADMIN. CODE §§ 113.1060 and 122.143(4), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 25, 2009. Specifically, the semiannual compliance report for the July 1, 2008 to December 31, 2008 reporting period was due to be submitted by January 31, 2009, however, it was not submitted until April 21, 2009.

### 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: Clearstream Wastewater Systems, Incorporated, Docket No. 2009-1420-AIR-E" to:

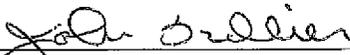
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. 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 Plant operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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

12/21/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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.

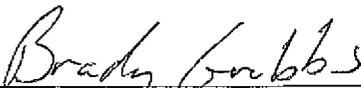
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- 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

11-3-09  
Date

  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Clearstream Wastewater Systems, Incorporated

VP  
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.