

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1740-MWD-E **TCEQ ID:** RN102800356 **CASE NO.:** 38597
RESPONDENT NAME: Port Terminal Railroad Association

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Port Terminal Railroad Association WWTP, located inside the North Railroad Yard, approximately 400 feet east of North Wayside Drive and 600 feet north of Clinton Drive, approximately 4.5 miles due east of the downtown Houston Central Business District, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 March 22, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Marvin Wells, General Manager, Port Terminal Railroad Association, 8934 Manchester Street, Houston, Texas 77012 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: August 12, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 9, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to submit the annual sludge report for the monitoring period ending July 31, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011773001, Sludge Provisions].</p> <p>2) Failure to comply with permit effluent limits for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011773001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$4,810</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,810</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 type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: This is a Findings Order because the Respondent received three previous enforcement actions for same or similar violations.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <p>a. By April 30, 2009, returned to compliance with the permitted effluent limits by resetting the blowers at the Facility; and</p> <p>b. On November 12, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008.</p>

Additional ID No(s): WQ0011773001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Oct-2009	Screening	26-Oct-2009	EPA Due	
	PCW	28-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Port Terminal Railroad Association
Reg. Ent. Ref. No.	RN102800356
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38597	No. of Violations	2
Docket No.	2009-1740-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes Enhancement recommended for having ten months of self-reported effluent violations, two NOV's for the same or similar violations, and one Agreed Order with denial language within the last five years.

Culpability Enhancement **Subtotal 4**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement **Subtotal 6**

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

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 Recommended reduction to prevent double enhancement of the penalty for same violations that were self reported.

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 No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 26-Oct-2009

Docket No. 2009-1740-MWD-E

PCW

Respondent Port Terminal Railroad Association

Policy Revision 2 (September 2002)

Case ID No. 38597

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102800356

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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)	12	60%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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) 80%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended for having ten months of self-reported effluent violations, two NOVs for the same or similar violations, and one Agreed Order with denial language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 80%

Screening Date 26-Oct-2009

Docket No. 2009-1740-MWD-E

PCW

Respondent Port Terminal Railroad Association

Policy Revision 2 (September 2002)

Case ID No. 38597

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102800356

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011773001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, as documented during an investigation conducted on August 12, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 426

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 \$6

Violation Final Penalty Total \$1,767

This violation Final Assessed Penalty (adjusted for limits) \$1,767

Economic Benefit Worksheet

Respondent Port Terminal Railroad Association
Case ID No. 38597
Reg. Ent. Reference No. RN102800356
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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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	\$100	1-Sep-2008	12-Nov-2009	1.20	\$6	n/a	\$6
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

Estimated amount required to submit the annual sludge report for the monitoring period ending July 31, 2008. Date Required is the date the report was due. Final Date is the date the annual sludge report was received.

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

\$100

TOTAL

\$6

Screening Date 26-Oct-2009

Docket No. 2009-1740-MWD-E

PCW

Respondent Port Terminal Railroad Association

Policy Revision 2 (September 2002)

Case ID No. 38597

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102800356

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011773001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permit effluent limits, as documented during a record review conducted on August 12, 2009 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes 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.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

62 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$500

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

Notes The Respondent returned to compliance on April 30, 2009.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$3,043

This violation Final Assessed Penalty (adjusted for limits) \$3,043

Economic Benefit Worksheet

Respondent Port Terminal Railroad Association
Case ID No. 38597
Reg. Ent. Reference No. RN102800356
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description: 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)	\$2,000	31-Dec-2008	30-Apr-2009	0.33	\$33	n/a	\$33

Notes for DELAYED costs

The estimated cost to reset the blowers and return to compliance with the permitted effluent limits. Date required is the date of the first exceedance. Final date is the date the Respondent returned to compliance.

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

\$2,000

TOTAL

\$33

Effluent Limit Violation Table

table rev.

Respondent	Port Terminal Railroad Association
ID Number(s)	TPDES Permit No. WQ0011773001
Docket Number	2009-1740-MWD-E
Ent. Coordinator	Samuel Short
Corresponds to Violation Number:	2

EFFLUENT PARAMETER

Permit Limit

	TSS Daily Average Conc.	TSS Single Grab											
Month/Year	15 mg/L	60 mg/L											
12/31/2008	22.4	c											
3/31/2009	28	77											

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
compliant	c
concentration	conc.

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600373138	Port Terminal Railroad Association	Classification: AVERAGE	Rating: 2.83
Regulated Entity:	RN102800356	PORT TERMINAL RAILROAD ASSOCIATION WWTP	Classification: AVERAGE	Site Rating: 1.43

ID Number(s):	STORMWATER	PERMIT	TXR05X721
	WASTEWATER	PERMIT	WQ0011773001
	WASTEWATER	PERMIT	TPDES0070645
	WASTEWATER	PERMIT	TX0070645

Location: LOCATED INSIDE THE NORTH RAILROAD YARD, APPROXIMATELY 400 FEET EAST OF NORTH WAYSIDE DRIVE AND 600 FEET NORTH OF CLINTON DRIVE, APPROXIMATELY 4.5 MILES DUE EAST OF THE DOWNTOWN HOUSTON CENTRAL BUSINESS DISTRICT, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: October 15, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 15, 2004 to October 15, 2009

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

Name: Samuel Short **Phone:** (512) 239-5363

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 - Effective Date: 04/28/2008 ADMINORDER 2007-1746-MWD-E
 - Classification: Moderate
 - Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
 - Rqmt Prov: Effluent Limits PERMIT
 - Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

- 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	11/04/2004	(385526)
2	11/10/2004	(340761)
3	11/23/2004	(385527)
4	01/18/2005	(385528)
5	03/07/2005	(385525)
6	04/11/2005	(423548)
7	05/13/2005	(423549)

8	06/21/2005	(423550)
9	09/13/2005	(444357)
10	09/13/2005	(444358)
11	10/24/2005	(474898)
12	12/14/2005	(474899)
13	01/11/2006	(474900)
14	02/24/2006	(474901)
15	03/10/2006	(474897)
16	04/14/2006	(502561)
17	05/24/2006	(502562)
18	08/09/2006	(524881)
19	08/09/2006	(524882)
20	08/09/2006	(524883)
21	10/02/2006	(584005)
22	10/04/2006	(490311)
23	10/19/2006	(584006)
24	12/04/2006	(584007)
25	12/04/2006	(584008)
26	01/10/2007	(584009)
27	03/12/2007	(584001)
28	04/30/2007	(584002)
29	06/04/2007	(584004)
30	06/13/2007	(584003)
31	06/13/2007	(584010)
32	06/29/2007	(565530)
33	07/10/2007	(567010)
34	08/06/2007	(604122)
35	08/20/2007	(604121)
36	08/29/2007	(604123)
37	10/04/2007	(574288)
38	10/11/2007	(604124)
39	11/05/2007	(623037)
40	12/05/2007	(623038)
41	01/07/2008	(674456)
42	02/01/2008	(674457)
43	03/03/2008	(692796)
44	05/05/2008	(692797)
45	05/05/2008	(692798)
46	06/12/2008	(713953)
47	06/30/2008	(729940)
48	07/11/2008	(713954)
49	09/02/2008	(713956)
50	09/05/2008	(713955)
51	09/29/2008	(713957)
52	12/01/2008	(729942)
53	12/17/2008	(729943)
54	01/14/2009	(729941)
55	01/29/2009	(753174)
56	02/24/2009	(753173)
57	04/03/2009	(770708)
58	04/22/2009	(770709)
59	05/21/2009	(770710)
60	08/31/2009	(747998)
61	10/09/2009	(765606)

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

Date: 04/30/2005 (423550)

CN600373138

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/03/2006 (490311) **CN600373138**
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.6(b)(3)
 Description: Failure to properly operate and maintain the chlorine contact basin.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limits & Monitoring Req'nts #2. OP
 Description: Failure to maintain compliance with permitted effluent limits for chlorine residual.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Monitoring & Report Req'nts No. 7c. OP
 Description: Failure to submit a noncompliance notification.
 Date: 01/31/2007 (584001) **CN600373138**
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2007 (584003) **CN600373138**
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2007 (584004) **CN600373138**
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2007 (604121) **CN600373138**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2007 (604123) **CN600373138**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2007 (604124) **CN600373138**
 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: 01/31/2008 (692796) **CN600373138**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2008 (753174) **CN600373138**
 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 (770709) **CN600373138**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2009 (747998) **CN600373138**

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permitted effluent limits. In January of 2008 the Total Suspended Solids (TSS) monthly average was 23.8 mg/L, in December of 2008 the monthly average TSS was 22.4 mg/L and in March of 2009 the monthly average TSS was 28.0 mg/L. The monthly limit for TSS is 15 mg.L so all of the above averages exceeded the permit limit by more than 40%.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to submit written noncompliance notification for self reported effluent violations which exceeded the permit limit by more than 40%.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(B)
Description: Failure to maintain the required sludge management records. At the time of the inspection, no sludge records were available for Toxicity Characteristic Leaching Procedure (TCLP) results, metals, PCBs or if necessary SCOUR and Fecal analyses.

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
PORT TERMINAL RAILROAD
ASSOCIATION
RN102800356**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1740-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Port Terminal Railroad Association ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located inside the North Railroad Yard, approximately 400 feet east of North Wayside Drive and 600 feet north of Clinton

Drive, approximately 4.5 miles due east of the downtown Houston Central Business District in Harris 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. During a record review on August 12, 2009, TCEQ staff documented that the annual sludge report for the monitoring period ending July 31, 2008 was not submitted.
4. During a record review conducted on August 12, 2009, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports ("DMRs").

<i>EFFLUENT PARAMETER</i>		
<i>Permit Limit</i>		
	TSS Daily Average Conc.	TSS Single Grab
<i>Month/Year</i>	15 mg/L	60 mg/L
12/31/2008	22.4	c
3/31/2009	28	77

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
compliant	c
concentration	conc.

5. The Respondent received notice of the violations on October 14, 2009.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures:
 - a. By April 30, 2009, returned to compliance with the permitted effluent limits by resetting the blowers at the Facility; and
 - b. On November 12, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011773001, Sludge Provisions.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011773001, Effluent Limitations and Monitoring Requirements No. 1.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Four Thousand Eight Hundred Ten Dollars (\$4,810) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Four Thousand Eight Hundred Ten Dollar (\$4,810) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Four Thousand Eight Hundred Ten Dollars (\$4,810) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Port Terminal Railroad Association, Docket No. 2009-1740-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. 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.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolter
For the Executive Director

2/25/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Port Terminal Railroad Association. I am authorized to agree to the attached Agreed Order on behalf of Port Terminal Railroad Association, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Port Terminal Railroad Association waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Marvin Wells
Signature

1-09-10
Date

MARVIN Wells
Name (Printed or typed)
Authorized Representative of
Port Terminal Railroad Association

General Manager
Title

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

