

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1327-MWD-E TCEQ ID: RN104072335 CASE NO.: 38166

RESPONDENT NAME: Is Zen Center

| | | |
|---|---|--|
| 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: Is Zen Center WWTP, located at 9550 Carraway Lane, 850 feet northeast of the corner of the intersection of Dobbin-Hufsmith Road and Carraway Lane, Montgomery County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment plant</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 March 1, 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 149, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Monte Y. Wang, Facility Manager, Is Zen Center, 1400 Graham Drive, Suite B-514, Tomball, Texas 77375 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: June 25, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 7, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for ammonia nitrogen and pH [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014491001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].</p> | <p>Total Assessed: \$6,150</p> <p>Total Deferred: \$1,230 <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: \$4,920</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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014491001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p> |

Additional ID No(s): WQ0014491001

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)PCW Revision October 30, 2008

| | | | | |
|----------------------|----------|-------------|-----------|-------------|
| TCEQ DATES | Assigned | 10-Aug-2009 | | |
| | PCW | 17-Aug-2009 | Screening | 17-Aug-2009 |
| | | | EPA Due | |

| | | | |
|--|---------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Is Zen Center | | |
| Reg. Ent. Ref. No. | RN104072335 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 38166 | No. of Violations | 1 |
| Docket No. | 2009-1327-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 | \$3,000 |
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | | |
| <small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small> | | | |
| Compliance History | 115.0% Enhancement | Subtotals 2, 3, & 7 | \$3,450 |
| Notes | The penalty is enhanced due to 18 monthly self-reported effluent violations, one NOV with similar violations, and one 1660 order with a denial of liability. | | |
| Culpability | No | 0.0% Enhancement | Subtotal 4 |
| Notes | The Respondent does not meet the culpability criteria. | | |
| Good Faith Effort to Comply Total Adjustments | | Subtotal 5 | \$0 |
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
| Total EB Amounts | \$915 | <small>*Capped at the Total EB \$ Amount</small> | |
| Approx. Cost of Compliance | \$10,000 | | |
| SUM OF SUBTOTALS 1-7 | | Final Subtotal | \$6,450 |
| OTHER FACTORS AS JUSTICE MAY REQUIRE | -4.7% | Adjustment | -\$300 |
| Notes | Recommend reduction in the penalty so that monthly self-reported violations do not overly impact the penalty amount. | | |
| | | Final Penalty Amount | \$6,150 |
| STATUTORY LIMIT ADJUSTMENT | | Final Assessed Penalty | \$6,150 |
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,230 |
| Notes | Deferral offered for expedited settlement. | | |
| PAYABLE PENALTY | | | \$4,920 |

Screening Date 17-Aug-2009

Docket No. 2009-1327-MWD-E

PCW

Respondent Is Zen Center

Policy Revision 2 (September 2002)

Case ID No. 38186

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104072335

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) | 19 | 95% |
| | 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) 115%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty is enhanced due to 18 monthly self-reported effluent violations, one NOV with similar violations, and one 1660 order with a denial of liability.

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

| | | |
|---|---|---|
| Screening Date 17-Aug-2009 | Docket No. 2009-1327-MWD-E | PCW |
| Respondent Is Zen Center | | <small>Policy Revision 2 (September 2007)</small> |
| Case ID No. 38166 | | <small>PCW Revision October 30, 2008</small> |
| Reg. Ent. Reference No. RN104072335 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Jeremy Escobar | | |
| Violation Number <input type="text" value="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. WQ0014491001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6 | |
| Violation Description | Failed to comply with permit effluent limits, as documented in a record review conducted on June 25, 2009. See attached table. | |
| | Base Penalty | <input type="text" value="\$10,000"/> |
| >> Environmental, Property and Human Health Matrix | | |
| OR | Harm | |
| | Major Moderate Minor | |
| Release | | |
| Actual | <input type="text"/> | <input type="text" value="x"/> |
| Potential | <input type="text"/> | <input type="text"/> |
| | Percent | <input type="text" value="10%"/> |
| >> Programmatic Matrix | | |
| | Falsification Major Moderate Minor | |
| | <input type="text"/> | <input type="text" value="0%"/> |
| Matrix Notes | A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. pH was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors. | |
| | Adjustment | <input type="text" value="\$9,000"/> |
| | | <input type="text" value="\$1,000"/> |
| Violation Events | | |
| Number of Violation Events | <input type="text" value="3"/> | <input type="text" value="212"/> Number of violation days |
| <small>mark only one with an x</small> | daily | <input type="text"/> |
| | weekly | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input type="text" value="x"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |
| | Violation Base Penalty | <input type="text" value="\$3,000"/> |
| Three quarterly events are recommended. | | |
| Good Faith Efforts to Comply | | |
| | 0.0% Reduction | <input type="text" value="\$0"/> |
| | <small>Before NOV NOV to EDRP/Settlement</small> | |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input type="text" value="x"/> | <input type="text" value="(mark with x)"/> |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |
| | Violation Subtotal | <input type="text" value="\$3,000"/> |
| Economic Benefit (EB) for this violation | | |
| Statutory Limit Test | | |
| Estimated EB Amount | <input type="text" value="-\$915"/> | Violation Final Penalty Total <input type="text" value="\$6,150"/> |
| | This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,150"/> | |

Economic Benefit Worksheet

Respondent Is Zen Center
Case ID No. 38166
Reg. Ent. Reference No. RN104072335
Media Water Quality
Violation No. 1

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$10,000 | 31-Aug-2008 | 30-Jun-2010 | 1.88 | \$915 | n/a | \$915 |

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the expected 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

\$10,000

TOTAL

\$915

Effluent Violation Table

Is Zen Center
 Docket No. 2009-1327-MWD-E, TPDES Permit No. WQ0014491001
 Case No. 38166
 RN104072335

| Permitted Effluent Limits | NH3-N Daily Ave. Conc. 3 mg/L | NH3-N Single Grab Conc. 15 mg/L | pH Min. 6.0 Standard Units |
|---------------------------|----------------------------------|------------------------------------|-------------------------------|
| August 2008 | 6.43 | C | C |
| October 2008 | C | C | 5.4 |
| November 2008 | 7.03 | 18.4 | C |
| December 2008 | 5.05 | C | C |
| January 2009 | 9.6 | C | C |
| February 2009 | 7.65 | C | C |
| March 2009 | C | C | 4.6 |

| | | | | | |
|--------------------------------|---------------|----------------|----------------|-----------------------|-----------------------------|
| NH3-N = Total Ammonia Nitrogen | C = compliant | Min. = Minimum | Ave. = Average | Conc. = Concentration | mg/L = Milligrams per Liter |
|--------------------------------|---------------|----------------|----------------|-----------------------|-----------------------------|

Compliance History Report

| | | | | |
|---|--|--------------------|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN602516551 | Is Zen Center | Classification: AVERAGE | Rating: 2.69 |
| Regulated Entity: | RN104072335 | IS ZEN CENTER WWTP | Classification: AVERAGE | Site Rating: 2.69 |
| ID Number(s): | WASTEWATER | PERMIT | | WQ0014491001 |
| | WASTEWATER | EPA ID | | TX0126306 |
| | WASTEWATER | PERMIT | | TX0126306 |
| Location: | 9550 Carraway Lane, 850 feet northeast of the corner of the intersection of Dobbins-Hufsmith Road and Carraway Lane In Montgomery County | | | |
| TCEQ Region: | REGION 12 - HOUSTON | | | |
| Date Compliance History Prepared: | August 17, 2009 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | August 17, 2004 to August 17, 2009 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | Jeremy Escobar | Phone: | 239 - 1460 | |

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 04/03/2008 ADMINORDER 2007-1186-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 | 06/07/2006 | (507071) |
| 2 | 07/14/2006 | (529231) |
| 3 | 08/24/2006 | (529232) |
| 4 | 09/14/2006 | (529233) |
| 5 | 10/19/2006 | (633848) |
| 6 | 11/13/2006 | (633850) |
| 7 | 12/20/2006 | (633852) |
| 8 | 01/22/2007 | (633854) |
| 9 | 02/20/2007 | (633840) |
| 10 | 03/19/2007 | (633841) |
| 11 | 04/18/2007 | (633842) |
| 12 | 05/16/2007 | (633843) |
| 13 | 06/21/2007 | (633844) |
| 14 | 07/06/2007 | (565153) |
| 15 | 07/17/2007 | (633845) |
| 16 | 08/15/2007 | (633846) |
| 17 | 09/13/2007 | (633847) |
| 18 | 10/16/2007 | (633849) |
| 19 | 11/18/2007 | (633851) |
| 20 | 12/18/2007 | (633853) |
| 21 | 01/10/2008 | (633855) |

22 02/16/2008 (677906)
 23 03/18/2008 (677907)
 24 04/19/2008 (677908)
 25 05/19/2008 (686738)
 26 06/06/2008 (686739)
 27 07/17/2008 (696740)
 28 08/29/2008 (718458)
 29 09/19/2008 (718459)
 30 10/20/2008 (718460)
 31 11/18/2008 (733694)
 32 12/18/2008 (756850)
 33 01/08/2009 (701025)
 34 01/20/2009 (733695)
 35 02/17/2009 (766847)
 36 03/10/2009 (766848)
 37 04/20/2009 (766849)
 38 07/09/2009 (746008)
 39 08/07/2009 (760087)

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

Date: 10/31/2006 (633850) CN602516551
 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: 12/31/2006 (633854) CN602516551
 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: 01/31/2007 (633840) CN602516551
 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: 02/28/2007 (633841) CN602516551
 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: 03/31/2007 (633842) CN602516551
 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: 05/31/2007 (633844) CN602516551
 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: 06/30/2007 (633845) CN602516551
 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 (633846) CN602516551
 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: | 09/30/2007 | (633849) | CN602516551 | |
| 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: | 12/31/2007 | (633855) | CN602516551 | |
| 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: | 04/30/2008 | (696738) | CN602516551 | |
| 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: | 08/31/2008 | (718459) | CN602516551 | |
| 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: | 10/31/2008 | (733694) | CN602516551 | |
| 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: | 11/30/2008 | | CN602516551 | |
| 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 | (733695) | CN602516551 | |
| 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 | | CN602516551 | |
| 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: | 02/31/2009 | | CN602516551 | |
| 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 | | CN602516551 | |
| 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: | 07/09/2009 | (746008) | CN602516551 | |
| Self Report? | NO | | | Classification: Moderate |
| Citation: | 30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i) | | | |
| Description: | Failure to provide a backflow prevention device for the potable water line to the wastewater treatment plant. | | | |
| | | | | |
| Self Report? | NO | | | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |

| | | |
|--------------|--|--------------------------|
| Description: | Interim ELMR, No. 1, p. 2 PERMIT | |
| | Failure to maintain compliance with the permitted effluent limits for ammonia-nitrogen (NH3-N) and pH. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.7(c) | |
| Description: | Failure to properly complete the Discharge Monitoring Reports (DMRs). | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | MRR, No. 7c, p. 6 PERMIT | |
| | Failure to submit the noncompliance notification for an effluent violation which deviated from the permitted limit by more than 40%. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.6 | |
| | 30 TAC Chapter 319, SubChapter A 319.9(c) | |
| Description: | Failure to record the Quality Assurance/Quality Control (QA/QC) analysis for the total chlorine residual. | |

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
IS ZEN CENTER
RN104072335

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1327-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 Is Zen Center ("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 plant located at 9550 Carraway Lane, 850 feet northeast of the corner of the intersection of Dobbin-Hufsmith Road and Carraway Lane 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 August 12, 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 Six Thousand One Hundred Fifty Dollars (\$6,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Nine Hundred Twenty Dollars (\$4,920) of the

administrative penalty and One Thousand Two Hundred Thirty Dollars (\$1,230) 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 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.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permit 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. WQ0014491001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, as documented during a record review conducted on June 25, 2009, and illustrated in the following table:

| Permitted Effluent Limits | NH3-N Daily Ave. Conc. 3 mg/L | NH3-N Single Grab Conc. 15 mg/L | pH Min. 6.0 Standard Units |
|---------------------------|----------------------------------|------------------------------------|-------------------------------|
| August 2008 | 6.43 | C | C |
| October 2008 | C | C | 5.4 |
| November 2008 | 7.03 | 18.4 | C |
| December 2008 | 5.05 | C | C |
| January 2009 | 9.6 | C | C |
| February 2009 | 7.65 | C | C |
| March 2009 | C | C | 4.6 |

| | | | | | |
|--------------------------------|---------------|----------------|----------------|-----------------------|-----------------------------|
| NH3-N = Total Ammonia Nitrogen | C = compliant | Min. = Minimum | Ave. = Average | Conc. = Concentration | mg/L = Milligrams per Liter |
|--------------------------------|---------------|----------------|----------------|-----------------------|-----------------------------|

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: Is Zen Center, Docket No. 2009-1327-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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014491001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 fine 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

John Szellin
For the Executive Director

4/20/2010
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

12/10/09
Date

Monte X. Wang
Name (Printed or typed)
Authorized Representative of
Is Zen Center

Facility 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.