

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0308-MWD-E **TCEQ ID:** RN101527737 **CASE NO.:** 39236

RESPONDENT NAME: Monument Inn, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Monument Inn, located approximately 150 feet due east of State Highway 134, 4,100 feet due north of the San Jacinto Monument and 400 feet due south of the Houston Ship Channel, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</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 June 7, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Robert Laws, President, Monument Inn, Inc., 4406 Independence Parkway South, La Porte, Texas 77571 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: January 12, 2010</p> <p>Date of NOV/NOE Relating to this Case: February 19, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for chlorine residual [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0013666001 Effluent Limitations and Monitoring Requirements No. 2].</p>	<p>Total Assessed: \$3,500</p> <p>Total Deferred: \$700 <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: \$2,800</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by December 31, 2009, the Respondent replaced the chlorination system and returned to compliance with its permitted effluent limits.</p>

Additional ID No(s): WQ0013666001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	22-Feb-2010	Screening	1-Mar-2010	EPA Due	
	PCW	2-Mar-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Monument Inn, Inc.		
Reg. Ent. Ref. No.	RN101527737		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39236	No. of Violations	1
Docket No.	2010-0308-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		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 \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 100.0% Enhancement Subtotals 2, 3, & 7 \$2,000

Notes: A 100% enhancement is recommended because the Respondent reported 11 months of effluent violations, received three NOVs for similar violations, five NOVs for non similar violations, and one 1660 Agreed Order with denial of liability language within the past five years.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$500

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$336
 Approx. Cost of Compliance \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$3,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$3,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$3,500

DEFERRAL 20.0% Reduction Adjustment -\$700

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,800

Screening Date 1-Mar-2010

Docket No. 2010-0308-MWD-E

PCW

Respondent Monument Inn, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39236

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527737

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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)	14	70%
	Other written NOVs	5	10%
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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 100%

>> 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

A 100% enhancement is recommended because the Respondent reported 11 months of effluent violations, received three NOVs for similar violations, five NOVs for non similar violations, and one 1660 Agreed Order with denial of liability language within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 100%

Screening Date 1-Mar-2010

Docket No. 2010-0308-MWD-E

PCW

Respondent Monument Inn, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39236

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101527737

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0013666001 Effluent Limitations and Monitoring Requirements No. 2

Violation Description

Failed to comply with permitted effluent limits as depicted on 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.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

91 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$500

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

Notes

The Respondent returned to compliance December 31, 2009.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$336

Violation Final Penalty Total \$3,500

This violation Final Assessed Penalty (adjusted for limits) \$3,500

Economic Benefit Worksheet

Respondent Monument Inn, Inc.
Case ID No. 39238
Reg. Ent. Reference No. RN101527737
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	30-Apr-2009	31-Dec-2009	0.67	\$336	n/a	\$336

Notes for DELAYED costs

The actual cost of replacing the chlorination system. Date Required is the date the first non-compliant excursion was documented. Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$336

Monument Inn, Inc.
Docket No. 2010-0308-MWD-E
RN101527737; TPDES Permit No. WQ0013666001
Effluent Violation Table

	Chlorine Residual, Minimum Concentration 1.0 milligrams per liter	Chlorine Residual, Maximum Concentration 4.0 milligrams per liter
April 2009	0.35	Compliant
August 2009	0.03	5
September 2009	Compliant	5

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600801229	Monument Inn, Inc.	Classification: AVERAGE	Rating: 1.76
Regulated Entity:	RN101527737	MONUMENT INN	Classification: AVERAGE	Site Rating: 1.76
ID Number(s):	WASTEWATER	PERMIT		WQ0013666001
	WASTEWATER	PERMIT		TPDES0113760
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		1011325
	WASTEWATER LICENSING	LICENSE		WQ0013666001
	WATER LICENSING	LICENSE		1011325
Location:	located approximately 150 feet due east of State Highway 134, 4,100 feet due north of the San Jacinto Monument and 400 feet due south of the Houston Ship Channel in Harris County, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	February 22, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 22, 2005 to February 22, 2010			

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

Name: Harvey Wilson Phone: 239 - 0321

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: 06/15/2006 ADMINORDER 2006-0058-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 03/21/2005 (426857)
 - 2 03/29/2005 (349141)
 - 3 05/10/2005 (380156)
 - 4 06/21/2005 (426854)

5	06/21/2005	(426855)
6	06/21/2005	(426856)
7	06/21/2005	(426858)
8	06/21/2005	(426859)
9	06/21/2005	(426860)
10	06/21/2005	(426862)
11	06/21/2005	(426863)
12	06/21/2005	(426864)
13	06/21/2005	(426865)
14	06/21/2005	(426867)
15	06/21/2005	(426868)
16	06/21/2005	(426869)
17	06/21/2005	(426870)
18	06/21/2005	(426871)
19	06/21/2005	(426872)
20	06/21/2005	(426873)
21	07/18/2005	(426866)
22	07/21/2005	(426861)
23	08/22/2005	(447056)
24	09/06/2005	(402604)
25	09/26/2005	(447057)
26	10/26/2005	(491206)
27	11/28/2005	(491207)
28	12/20/2005	(491208)
29	01/11/2006	(436913)
30	01/18/2006	(491210)
31	02/24/2006	(491204)
32	03/23/2006	(491205)
33	04/24/2006	(505679)
34	06/05/2006	(505680)
35	06/27/2006	(505681)
36	07/24/2006	(527942)
37	08/22/2006	(527943)
38	10/03/2006	(629864)
39	10/26/2006	(629866)
40	11/28/2006	(629868)
41	12/21/2006	(517829)
42	12/27/2006	(629869)
43	01/29/2007	(629870)
44	02/27/2007	(629857)
45	03/07/2007	(543154)
46	03/26/2007	(629858)
47	03/29/2007	(537802)
48	04/23/2007	(629859)
49	05/22/2007	(629860)
50	06/15/2007	(644903)
51	06/22/2007	(629861)
52	07/20/2007	(629862)
53	09/01/2007	(645742)
54	09/17/2007	(629863)
55	09/18/2007	(629865)
56	10/18/2007	(629867)
57	01/02/2008	(676851)
58	01/21/2008	(676852)

59 02/19/2008 (676850)
 60 03/19/2008 (695440)
 61 04/18/2008 (695441)
 62 05/13/2008 (695442)
 63 06/16/2008 (695443)
 64 07/16/2008 (695444)
 65 09/24/2008 (716971)
 66 10/16/2008 (716972)
 67 10/17/2008 (716970)
 68 11/20/2008 (732373)
 69 12/15/2008 (732374)
 70 01/14/2009 (732375)
 71 02/19/2009 (755695)
 72 03/09/2009 (736527)
 73 03/12/2009 (755696)
 74 04/20/2009 (755697)
 75 05/13/2009 (772718)
 76 06/11/2009 (772719)
 77 07/15/2009 (748653)
 78 01/11/2010 (782726)
 79 02/19/2010 (788133)

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

Date: 02/28/2005 (426857) CN600801229
 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: 03/29/2005 (349141) CN600801229
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 Description: Failure to provide a backflow prevention device on the potable water line to the
 wastewater treatment plant.
 Self Report? NO Classification: Moderate
 Citation: 13666-001 PERMIT
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to provide the required records for review during the investigation.
 Self Report? NO Classification: Moderate
 Citation: 13666-001 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to report effluent violations that deviate from the permit limits by greater
 than 40% and two-hour peak flow violations.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to properly operate and maintain the wastewater treatment plant.
 Date: 03/31/2005 (426860) CN600801229
 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: 04/30/2005 (426862) CN600801229
 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: 05/09/2005 (380156) CN600801229
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)
 Description: Failure to provide a backflow prevention device on the potable water line to the wastewater treatment plant.
 Self Report? NO Classification: Moderate

Citation: 13666-001 PERMIT
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to provide the required records for review during the investigation.
 Self Report? NO Classification: Moderate

Citation: 13666-001 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to report effluent violations that deviate from the permit limits by greater than 40% and two-hour peak flow violations.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to properly operate and maintain the wastewater treatment plant.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to complete and submit the monthly Discharge Monitoring Reports (DMRs) and the annual FY 04 sludge report.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)
 30 TAC Chapter 30, SubChapter J 30.350(d)
 Description: Failure to provide an operator with adequate wastewater certification.
 Self Report? NO Classification: Moderate

Citation: 13666-001 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to conduct the Toxicity Characteristic Leachate Procedure (TCLP) analysis on the sludge.
 Self Report? NO Classification: Moderate

Citation: 13666-001 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the self-monitored effluent limitations for chlorine residual.
 Date: 05/31/2005 (426864) CN600801229
 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: 06/30/2005 (426866) CN600801229
 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: 07/31/2005 (447056) CN600801229
 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: 11/30/2005 (491208) CN600801229
 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: 12/31/2005 (491210) CN600801229

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: 12/21/2006 (517829) CN600801229

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
Operational Requirements, No. 8a, p. 10 PERMIT

Description: Failure to initiate engineering and financial planning for an expansion and/or upgrade of the wastewater treatment plant (WWTP) or collection system when the plant has reached 75% of the permitted daily average flow for three consecutive months.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(l)

Description: Failure to annually test the backflow prevention device on the potable water line to the wastewater treatment plant.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
ELMR, No. 2 PERMIT

Description: Failure to maintain compliance with the permitted effluent limits for total chlorine residual.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
ELMR, No. 1 PERMIT

Description: Failure to maintain compliance with the permitted effluent limits for total suspended solids (TSS).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to properly operate and maintain the wastewater treatment plant (WWTP).

Date: 03/29/2007 (537802) CN600801229

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(C)

Description: Failure to locate ground water sources so there will be no danger of pollution from insanitary surroundings. Specifically, the well must not be located within 500 feet of a sewer treatment plant.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to provide a pressure tank inspection report showing that pressure tank had been inspected internally and externally.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)

Description: Failure to provide at the time of the investigation an annual backflow prevention test and maintenance report for the Sewer Treatment Plant.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to properly maintain the regulated entity by not repairing or replacing broken

barbed wire on the fence at well site.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not cutting the shrubs on the fence at well site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide copies of recorded sanitary control easements, an approved substitute, or an exception to the requirement for all the #2 well.

Date: 06/15/2007 (644903) CN600801229
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS
Date: 09/01/2007 (645742) CN600801229
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)
Description: PUBLIC NOTICE
Date: 02/24/2009 (736527) CN600801229
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(C)
Description: Failure to locate ground water sources so there will be no danger of pollution from insanitary surroundings. Specifically, the well must not be located within 500 feet of a sewer treatment plant.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failure to provide a pressure tank inspection report showing that pressure tank had been inspected internally and externally.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
Description: Failure to provide at the time of the investigation an annual backflow prevention test and maintenance report for the Sewer Treatment Plant.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not cutting the shrubs on the fence at well site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide copies of recorded sanitary control easements, an approved substitute, or an exception to the requirement for all the #2 well.

Date: 03/02/2009 (736527) CN600801229
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not repairing or replacing broken barbed wire on the fence at well site.

Date: 04/30/2009 (772718) CN600801229
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

CN600801229

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: 09/31/2009

CN600801229

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: 01/11/2010 (782726)

CN600801229

Self Report? NO

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to properly operate and maintain the wastewater treatment plant.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Effluent Limitations and Monitoring Req. PERMIT

Description: Failure to maintain compliance with the permitted effluent limits for chlorine residual.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Effluent Limitations and Monitoring Req. PERMIT

Description: Failure to maintain compliance with permitted effluent limitations for total suspended solids (TSS).

F. Environmental audits

N/A

G. Type of environmental management systems (EMS)

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
MONUMENT INN, INC.
RN101527737

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2010-0308-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 Monument Inn, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a restaurant with an associated wastewater treatment facility approximately 150 feet due east of State Highway 134, 4,100 feet due north of the San Jacinto Monument and 400 feet due south of the Houston Ship Channel 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. 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 February 24, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Two Thousand Eight Hundred Dollars (\$2,800) of the administrative penalty and Seven Hundred Dollars (\$700) 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 by December 31, 2009, the Respondent replaced the chlorination system and returned to compliance with its permitted effluent limits.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0013666001 Effluent Limitations and Monitoring Requirements No. 2, as documented during a record review conducted on January 12, 2010, and depicted in the table below:

	Chlorine Residual Minimum Concentration 1.0 milligrams per liter	Chlorine Residual Maximum Concentration 4.0 milligrams per liter
April 2009	0.35	Compliant
August 2009	0.03	5
September 2009	Compliant	5

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: Monument Inn, Inc., Docket No. 2010-0308-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. 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

5/14/2010
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

4-5-10
Date

Robert Laws

Name (Printed or typed)
Authorized Representative of
Monument Inn, Inc.

pres

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.