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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0307-IWD-E **TCEQ ID:** RN101613370 **CASE NO.:** 39214
RESPONDENT NAME: Bayshore Industrial, L.P.

| | | |
|---|--|---|
| 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: Bayshore Industrial WWTP, located approximately 850 feet west of the intersection of McCabe Road and State Highway 146, three miles south of La Porte, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing plant</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 August 23, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Stephen Barkmann, President/General Manager, Bayshore Industrial, L.P., 1300 McCabe Road, La Porte, Texas 77571 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

DOCKET NO.: 2010-0307-IWD-E

| 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 13, 2010</p> <p>Date of NOV/NOE Relating to this Case: February 19, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limitations for total suspended solids, carbonaceous biochemical oxygen demand, flow, and pH [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003608000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].</p> | <p>Total Assessed: \$6,090</p> <p>Total Deferred: \$1,218 <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: \$4,872</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. WQ0003608000, 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): TPDES Permit No. WQ0003608000



Penalty Calculation Worksheet (PCW)

TCEQ

| | | | | | | |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 22-Feb-2010 | Screening | 25-Feb-2010 | EPA Due | |
| | PCW | 27-May-2010 | | | | |

| | | | |
|--|---------------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Bayshore Industrial, L.P. | | |
| Reg. Ent. Ref. No. | RN101613370 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

| | | | |
|---------------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 39214 | No. of Violations | 2 |
| Docket No. | 2010-0307-IWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Thomas Jecha |
| | | 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 74.0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit 0.0% Enhancement* Subtotal 6

| | | |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts | \$403 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$5,000 | |

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 25-Feb-2010

Docket No. 2010-0307-IWD-E

PCW

Respondent Bayshore Industrial, L.P.

Policy Revision 2 (September 2002)

Case ID No. 39214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613370

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

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 | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 74%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhanced for 14 self-reported effluent violations and two dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 74%

Screening Date 25-Feb-2010

Docket No. 2010-0307-IWD-E

PCW

Respondent Bayshore Industrial, L.P.

Policy Revision 2 (September 2002)

Case ID No. 39214

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101813370

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003608000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2.

Violation Description

Failed to comply with the permitted effluent limits for Outfall 001 during the months of February and March 2009. See 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 | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0%

Matrix Notes

Flow, total suspended solids, and pH were considered to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

59 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDRP/Settlement |
|---------------|------------|------------------------|
| 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 \$403

Violation Final Penalty Total \$1,740

This violation Final Assessed Penalty (adjusted for limits) \$1,740

Economic Benefit Worksheet

Respondent Bayshore Industrial, L.P.
Case ID No. 39214
Reg. Ent. Reference No. RN101613370
Media Water Quality
Violation No. 1

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

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|

Item Description 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) | \$5,000 | 28-Feb-2009 | 10-Oct-2010 | 1.61 | \$403 | n/a | \$403 |

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented and 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

\$5,000

TOTAL

\$403

Screening Date 25-Feb-2010

Docket No. 2010-0307-IWD-E

PCW

Respondent Bayshore Industrial, L.P.

Policy Revision 2 (September 2002)

Case ID No. 39214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613370

Media [Statute] Water Quality

Enf. Coordinator Thomas Jecha

Violation Number 2

Rule Cite(s) Tex. Water Code § 28.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0003608000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2.

Violation Description Failed to comply with the permitted effluent limits for Outfall 001 during the month of April 2009. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | X | | 25% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 30

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

Violation Base Penalty \$2,500

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

| | | |
|---------------|------------|---------------------------------|
| | Before NOV | NOV to EDP/PP/ 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,350

This violation Final Assessed Penalty (adjusted for limits) \$4,350

Economic Benefit Worksheet

Respondent Bayshore Industrial, L.P.
Case ID No. 39214
Reg. Ent. Reference No. RN101613370
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 |
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|

Item Description: No commas or \$

Delayed Costs

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

Notes for DELAYED costs

Delayed costs included in economic benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Effluent Limit Violation Table

| | |
|-------------------------|---------------------------|
| Respondent | Bayshore Industrial, L.P. |
| ID Number(s) | RN101613370; Case 39214 |
| Docket Number | 2010-0307-IWD-E |
| Enf. Coordinator | Thomas Jecha |

Corresponds to Violation Number: 1 & 2

EFFLUENT PARAMETER - (Outfall 001)

| | TSS (daily average loading) | TSS (daily average conc) | TSS (daily maximum loading) | TSS (daily maximum conc) | CBOD (daily average loading) | CBOD (daily average conc) | CBOD (daily maximum loading) | Flow (daily average) | Flow (daily maximum) | pH (maximum) |
|---------------------|-----------------------------|--------------------------|-----------------------------|--------------------------|------------------------------|---------------------------|------------------------------|----------------------|----------------------|--------------|
| <i>permit limit</i> | 5.01 lbs/day | 12 mg/L | 30 lbs/day | 9.81 mg/L | 2.09 lbs/day | 5 mg/L | 5.01 lbs/day | 0.05 MGD | 0.075 MGD | 9 SU |
| <i>Month/Year</i> | | | | | | | | | | |
| 2/28/2009 | c | 30.3 | 54 | 10.3 | c | c | c | c | c | 9.42 |
| 3/31/2009 | c | 13 | c | 21.3 | c | c | c | c | 0.134 | 9.18 |
| 4/30/2009 | 17.4 | 26.7 | 46 | 319.9 | 4.06 | 6.43 | 64.7 | 0.076 | 0.833 | c |

mg/L = milligrams per liter TSS = Total Suspended Solids
 lbs/day = pounds per day CBOD = Carbonaceous Biochemical Oxygen Demand (5-day)
 c = compliant conc = concentration
 MGD = million gallons per day SU = standard units

Compliance History Report

Customer/Respondent/Owner-Operator: CN602792830 Bayshore Industrial, L.P. Classification: AVERAGE Rating: 1.73
Regulated Entity: RN101613370 BAYSHORE INDUSTRIAL WWPP Classification: AVERAGE Site Rating: 0.45
ID Number(s): WASTEWATER PERMIT WQ0003608000
WASTEWATER PERMIT TPDES0111350
WASTEWATER PERMIT TX0111350
Location: Approx 850 ft W of intersection of McCabe Rd & SH 146, 3 mi S of City of La Porte, Harris Co. Tx
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: February 24, 2010
Agency Decision Requiring Compliance Enforcement
Compliance Period: February 24, 2005 to February 24, 2010

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

Name: Thomas Jecha Phone: 239 - 2576

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? Yes
3. If Yes, who is the current owner/operator? Bayshore Industrial, L.P.
4. If Yes, who was/were the prior owner(s)/operator(s) ? Bayshore Industrial, Inc.
5. When did the change(s) in owner or operator occur? 02/08/2010
- 6 Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 03/21/2005 | (389092) |
| 2 | 04/25/2005 | (426663) |
| 3 | 05/23/2005 | (426664) |
| 4 | 06/27/2005 | (426665) |
| 5 | 07/11/2005 | (398050) |
| 6 | 07/22/2005 | (446896) |
| 7 | 08/23/2005 | (446897) |
| 8 | 09/06/2005 | (405178) |
| 9 | 09/20/2005 | (446898) |
| 10 | 10/14/2005 | (434071) |
| 11 | 10/24/2005 | (490784) |
| 12 | 11/22/2005 | (490785) |
| 13 | 12/20/2005 | (490786) |
| 14 | 01/24/2006 | (490787) |
| 15 | 02/27/2006 | (490782) |
| 16 | 03/23/2006 | (490783) |
| 17 | 04/24/2006 | (505491) |
| 18 | 05/23/2006 | (505492) |
| 19 | 06/21/2006 | (505493) |

20 07/25/2006 (527762)
 21 08/21/2006 (527763)
 22 09/25/2006 (527764)
 23 12/27/2006 (588264)
 24 01/23/2007 (588265)
 25 02/26/2007 (588257)
 26 03/22/2007 (588258)
 27 03/30/2007 (588262)
 28 03/30/2007 (588263)
 29 04/24/2007 (588259)
 30 05/23/2007 (588260)
 31 06/25/2007 (588261)
 32 06/27/2007 (565364)
 33 07/20/2007 (605386)
 34 08/22/2007 (605387)
 35 09/24/2007 (605388)
 36 10/22/2007 (629451)
 37 11/27/2007 (629452)
 38 12/20/2007 (629453)
 39 01/22/2008 (629454)
 40 01/22/2008 (755561)
 41 02/22/2008 (716798)
 42 03/24/2008 (716799)
 43 04/21/2008 (695278)
 44 05/21/2008 (716800)
 45 06/23/2008 (695279)
 46 07/22/2008 (716801)
 47 08/26/2008 (716802)
 48 09/26/2008 (732228)
 49 10/22/2008 (732229)
 50 11/24/2008 (732230)
 51 12/19/2008 (732231)
 52 03/20/2009 (755560)
 53 04/28/2009 (772608)
 54 07/29/2009 (762959)
 55 09/21/2009 (776749)
 56 02/19/2010 (788315)

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

Date: 05/31/2005 (426665) CN602792830
 Self YES Classification: Moderate
 Report?
 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: 07/11/2005 (398050) CN602792830
 Self NO Classification: Moderate
 Report?
 Citation: 30 TAC Chapter 319, SubChapter A 319.4
 Description: Failure to perform sampling and analysis for Carbonaceous Biochemical Oxygen Demand as required in the permit.
 Self NO Classification: Moderate
 Report?
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to properly hand-composite samples.
 Self NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 Description: Failure to properly complete the chain of custody tags.
 Self NO Classification: Minor
 Report?
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)

30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to provide a National Institute of Standards and Technology (NIST)

traceable thermometer and temperature log for the sample storage refrigerator.

| | | | |
|--------------|--|-----------------|----------|
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to determine and record the annual contact cooling water usage and annual cleaning water usage as required in the Other Permit Requirements. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | Other Requirements, Pg. 13, No. 11 PERMIT | | |
| Description: | Failure to perform the sampling and analysis required for Attachment 1 in the Other Requirements provisions. | | |
| Date: | 02/28/2006 (490783) | CN602792830 | |
| 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: | 02/28/2009 (755560) | CN602792830 | |
| 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: | 07/29/2009 (762959) | CN602792830 | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(11)(A) TPDES Permit No. 03608-000 PERMIT | | |
| Description: | Failure to collect carbonaceous biochemical oxygen demand (CBOD) and total suspended solids (TSS) samples, as required. | | |
| Date: | 03/31/2009 | CN602792830 | |
| 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: | 04/30/2009 | CN602792830 | |
| 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: | 05/31/2009 | CN602792830 | |
| 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: | 06/30/2009 | CN602792830 | |
| 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: | 07/31/2009 | CN602792830 | |
| 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 | CN602792830 | |
| 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: | 09/30/2009 | CN602792830 | |
| 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: 10/31/2009 CN602792830
 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: 11/30/2009 CN602792830
 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: 12/31/2009 CN602792830
 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: 01/31/2010 CN602792830
 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

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
BAYSHORE INDUSTRIAL, L.P.
RN101613370

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0307-IWD-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 Bayshore Industrial, L.P. ("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 chemical manufacturing plant located approximately 850 feet west of the intersection of McCabe Road and State Highway 146, three miles south of La Porte, 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 Six Thousand Ninety Dollars (\$6,090) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Eight Hundred Seventy-Two Dollars (\$4,872) of the

administrative penalty and One Thousand Two Hundred Eighteen Dollars (\$1,218) 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 permitted effluent limitations, 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. WQ0003608000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on January 13, 2010 and shown in the table below:

| | TSS (daily average loading) | TSS (daily average conc) | TSS (daily maximum loading) | TSS (daily maximum conc) | CBOD (daily average loading) | CBOD (daily average conc) | CBOD (daily maximum loading) | Flow (daily average) | Flow (daily maximum) | pH (maximum) |
|---------------------|-----------------------------|--------------------------|-----------------------------|--------------------------|------------------------------|---------------------------|------------------------------|----------------------|----------------------|--------------|
| <i>permit limit</i> | 5.01 lbs/day | 12 mg/L | 30 lbs/day | 9.81 mg/L | 2.09 lbs/day | 5 mg/L | 5.01 lbs/day | 0.05 MGD | 0.075 MGD | 9 SU |
| Month/Year | | | | | | | | | | |
| 2/28/2009 | c | 30.3 | 54 | 10.3 | c | c | c | c | c | 9.42 |
| 3/31/2009 | c | 13 | c | 21.3 | c | c | c | c | 0.134 | 9.18 |
| 4/30/2009 | 17.4 | 26.7 | 46 | 319.9 | 4.08 | 6.43 | 64.7 | 0.076 | 0.833 | c |

mg/L = milligrams per liter

lbs/day = pounds per day

c = compliant

MGD = million gallons per day

TSS = Total Suspended Solids

CBOD = Carbonaceous Biochemical Oxygen Demand (5-day)

conc = concentration

SU = standard units

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: Bayshore Industrial, L.P. , Docket No. 2010-0307-IWD-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. WQ0003608000, 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

8/13/2010
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

6/10/2010
Date

STEPHEN BARKMAN
Name (Printed or typed)
Authorized Representative of
Bayshore Industrial, L.P.

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.

