

**Executive Summary – Enforcement Matter – Case No. 41264**  
**Texas A & M University at Galveston**  
**RN102339561**  
**Docket No. 2011-0378-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Texas A & M University at Galveston, located at Texas A & M University at Galveston (Mitchell Campus) on the east side of Sea Wolf Parkway near the north end of Pelican Island Causeway, Galveston, Galveston County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 15, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,140

**Amount Deferred for Expedited Settlement:** \$228

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$912

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41264  
Texas A & M University at Galveston  
RN102339561  
Docket No. 2011-0378-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 13, 2011

**Date(s) of NOE(s):** February 7, 2011

***Violation Information***

Failed to prevent the unauthorized discharge of municipal waste into or adjacent to water in the state. Specifically, oil, grease, and debris from the Facility was found upstream and downstream of the outfall [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011085001, Effluent Limitations and Monitoring Requirements No. 4].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 30 days:

i. Remove and properly dispose of all visible solids, oil, grease, and debris from the Facility and from the receiving stream; and

ii. Evaluate the Facility to determine the cause of the accumulation of oil, grease, and debris and take steps to prevent the discharge of wastes into the receiving stream.

b. Within 45 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 41264**  
**Texas A & M University at Galveston**  
**RN102339561**  
**Docket No. 2011-0378-MWD-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Steve Villatoro, Enforcement Division,  
Enforcement Team 1, MC 169, (512) 239-4930; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** David L. Lang, Assistant Director of Maintenance & Operations, Texas A  
& M University at Galveston, P.O. Box 1675, Galveston, Texas 77553

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	14-Feb-2011			
	<b>PCW</b>	1-Mar-2011	<b>Screening</b>	28-Feb-2011	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Texas A & M University at Galveston				
<b>Reg. Ent. Ref. No.</b>	RN102339561				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41264	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-0378-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Steve Villatoro
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>14.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$140</b>
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Notes: Enhancement for one month of self-reported effluent violations, one NOV with same/similar violations and two NOVs with dissimilar violations.

<b>Culpability</b>	<b>No</b>	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$410
Approx. Cost of Compliance	\$11,500

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,140</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,140</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,140</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$228</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$912</b>
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**Screening Date** 28-Feb-2011

**Docket No.** 2011-0378-MWD-E

**PCW**

**Respondent** Texas A & M University at Galveston

Policy Revision 2 (September 2002)

**Case ID No.** 41264

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102339561

**Media [Statute]** Water Quality

**Enf. Coordinator** Steve Villatoro

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 14%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one month of self-reported effluent violations, one NOV with same/similar violations and two NOVs with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 14%

Screening Date 28-Feb-2011

Docket No. 2011-0378-MWD-E

PCW

Respondent Texas A & M University at Galveston

Policy Revision 2 (September 2002)

Case ID No. 41264

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102339561

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011085001, Effluent Limitations and Monitoring Requirements No. 4

Violation Description Failed to prevent the unauthorized discharge of municipal waste into or adjacent to water in the state, as documented during an investigation conducted on January 13, 2011. Specifically, oil, grease, and debris from the Facility was found upstream and downstream of the outfall.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	10%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 46

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 from the investigation date (January 13, 2011) to the screening date (February 28, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$410

Violation Final Penalty Total \$1,140

This violation Final Assessed Penalty (adjusted for limits) \$1,140

## Economic Benefit Worksheet

**Respondent** Texas A & M University at Galveston  
**Case ID No.** 41264  
**Req. Ent. Reference No.** RN102339561  
**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	\$1,500	13-Jan-2011	30-Sep-2011	0.71	\$53	n/a	\$53
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	13-Jan-2011	30-Sep-2011	0.71	\$356	n/a	\$356

Notes for DELAYED costs

Estimated cost to remove and properly dispose of all visible grease, solids, oil, and debris from the receiving stream. Estimated cost to evaluate the Facility and to take steps to prevent recurrence. Date required is the date of the investigation. 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

\$11,500

**TOTAL**

\$410

## Compliance History

Customer/Respondent/Owner-Operator: CN601233968 Texas A & M University at Galveston Classification: AVERAGE Rating: 2.25

Regulated Entity: RN102339561 TEXAS A&M UNIVERSITY AT GALVESTON Classification: AVERAGE Site Rating: 0.74

ID Number(s): POLLUTION PREVENTION PLANNING ID NUMBER P02544  
WASTEWATER WASTE PERMIT WQ0011085001  
WASTEWATER EPA ID TX0063231  
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988026357  
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 75406  
(SWR)

Location: located at Texas A & M University at Galveston (Mitchell Campus) on the east side of Sea Wolf Parkway near the north end of Pelican Island Causeway in Galveston, Galveston County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 02, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 28, 2006 to February 28, 2011

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

Name: Steve Villatoro Phone: (512) 239-4930

### 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: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 03/30/2006 (454650)
  - 2 02/07/2007 (539180)
  - 3 05/09/2007 (559021)
  - 4 08/24/2007 (573012)
  - 5 04/02/2007 (583139)
  - 6 06/05/2007 (583140)
  - 7 06/06/2007 (583141)
  - 8 04/02/2007 (583142)
  - 9 06/05/2007 (583143)
  - 10 04/23/2007 (583144)
  - 11 04/02/2007 (583145)
  - 12 05/24/2007 (583146)
  - 13 06/20/2007 (583147)
  - 14 06/06/2007 (583148)
  - 15 04/02/2007 (583149)
  - 16 04/02/2007 (583150)
  - 17 04/02/2007 (583151)
  - 18 04/02/2007 (583152)
  - 19 04/02/2007 (583153)
  - 20 04/02/2007 (583154)

21	06/06/2007	(583155)
22	04/02/2007	(583156)
23	03/27/2008	(597126)
24	07/26/2007	(603826)
25	08/20/2007	(603827)
26	09/24/2007	(603828)
27	10/19/2007	(622581)
28	11/27/2007	(622582)
29	12/27/2007	(622583)
30	01/21/2008	(674160)
31	06/06/2008	(692463)
32	06/06/2008	(692464)
33	06/06/2008	(692465)
34	06/06/2008	(692466)
35	08/22/2008	(713581)
36	04/01/2009	(752850)
37	02/09/2009	(752851)
38	02/09/2009	(752852)
39	02/09/2009	(752853)
40	02/09/2009	(752854)
41	02/09/2009	(752855)
42	03/09/2009	(770467)
43	05/12/2010	(795024)
44	02/22/2010	(811021)
45	08/21/2009	(811022)
46	08/21/2009	(811023)
47	08/21/2009	(811024)
48	09/28/2009	(811025)
49	10/22/2009	(811026)
50	11/30/2009	(811027)
51	01/22/2010	(811028)
52	01/22/2010	(811029)
53	03/22/2010	(833092)
54	05/26/2010	(833093)
55	08/17/2010	(844622)
56	06/30/2010	(845241)
57	06/18/2010	(846958)
58	09/29/2010	(867716)
59	08/20/2010	(867717)
60	09/21/2010	(874683)
61	10/20/2010	(882269)
62	11/22/2010	(888734)
63	02/07/2011	(892674)
64	12/20/2010	(897079)

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

Date: 03/28/2006 (454650) CN601233968

Self Report? NO Classification: Minor

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

30 TAC Chapter 317 317.7(i)

Description: Failure to provide an atmospheric vacuum breaker on the potable water washdown hose.

Self Report? NO Classification: Moderate

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

TPDES Permit No. 11085-001 PERMIT

Description: Failure to provide laboratory results for the required sludge analyses.

Self Report? NO Classification: Minor

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

Description: Failure to maintain an intruder-resistant fence around the wastewater treatment plant.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(d)  
Description: Failure to properly maintain the clarifier.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to provide documentation that the secondary flow measuring device was calibrated within the last year.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)  
TPDES Permit No. 11085-001 PERMIT  
Description: Failure to perform sampling and analyses at the frequency specified in the  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
Description: Failure to accurately complete the discharge monitoring reports.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.6(b)(1)(E)  
Description: Failure to maintain the chlorine room ventilation system.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TPDES Permit No. 11085-001 PERMIT  
Description: Failure to submit accurate information in the permit application.  
Date: 08/27/2007 (573012) CN601233968  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TPDES Permit No. 11085-001 PERMIT  
Description: Failure to submit accurate information in the permit application.  
Self Report? NO Classification: Moderate

Citation: 11085-001 PERMIT  
30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.3  
Description: Failure to provide an operative stand by lift pump in the onsite lift station.  
Self Report? NO Classification: Moderate

Citation: 11085-001 PERMIT  
30 TAC Chapter 317 317.6(b)(1)  
30 TAC Chapter 317 317.6(b)(1)(A)  
30 TAC Chapter 317 317.6(b)(1)(B)  
30 TAC Chapter 317 317.6(b)(1)(C)  
30 TAC Chapter 317 317.6(b)(1)(D)  
30 TAC Chapter 317 317.6(b)(1)(E)  
30 TAC Chapter 317 317.6(b)(1)(F)  
30 TAC Chapter 317 317.6(b)(1)(G)  
Description: Failure to provide operative chlorine scales.  
Self Report? NO Classification: Moderate

Citation: 11085-001 PERMIT  
30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(g)(4)(B)  
Description: Failure to provide an operative back-up blower.  
Self Report? NO Classification: Moderate

Citation: 11085-001 PERMIT  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Description: Failure to maintain the grounds of the wastewater treatment plant so that it is intruder resistant.  
Date 05/12/2010 (795024) CN601233968  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Description: Failure to provide a functional high level alarm.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to calibrate the flow meter annually.  
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: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
30 TAC Chapter 319, SubChapter A 319.7(c)  
Description: Failure to properly calibrate the chlorine meter.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to prevent the discharge of oil and grease, foam and debris into the receiving stream.  
Date 11/30/2010 (897079) CN601233968  
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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TEXAS A & M UNIVERSITY AT  
GALVESTON  
RN102339561**

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§  
§  
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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0378-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 Texas A & M University at Galveston ("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 wastewater treatment plant located at Texas A & M University at Galveston (Mitchell Campus) on the east side of Sea Wolf Parkway near the north end of Pelican Island Causeway in Galveston, Galveston 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 12, 2011.
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 One Thousand One Hundred Forty Dollars (\$1,140) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Hundred Twelve Dollars (\$912) of the administrative penalty and Two Hundred Twenty-Eight Dollars (\$228) 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 prevent the unauthorized discharge of municipal waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011085001, Effluent Limitations and Monitoring Requirements No. 4, as documented during an investigation conducted on January 13, 2011. Specifically, oil, grease, and debris from the Facility was found upstream and downstream of the outfall.

## **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: Texas A & M University at Galveston, Docket No. 2011-0378-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 undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Agreed Order:
    - i. Remove and properly dispose of all visible solids, oil, grease, and debris from the Facility and from the receiving stream; and
    - ii. Evaluate the Facility to determine the cause of the accumulation of oil, grease, and debris and take steps to prevent the discharge of wastes into the receiving stream.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph

exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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.

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**SIGNATURE PAGE**

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Rd. D. Hyle  
For the Executive Director

8/31/11  
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

5/25/11  
Date

DAVID C. LANG  
Name (Printed or typed)  
Authorized Representative of  
Texas A & M University at Galveston

ASST. DIR. FACILITIES SERVICES  
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.