

Executive Summary – Enforcement Matter – Case No. 40817
Head Family Partnership, Ltd.
RN102380474
Docket No. 2010-1960-IWD-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
IWD

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
Southside of the intersection of Interstate Highway 20 and Farm-to-Market Road 968, approximately 1,500 feet east of Loop 281, Harrison County

Type of Operation:
industrial wastewater system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: July 22, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$6,355

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$6,355

Compliance History Classifications:
Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: October 26, 2010
Date(s) of NOV(s): See Compliance History – 13 NOVs
Date(s) of NOE(s): December 1, 2010

Violation Information

1. Failed to submit a complete discharge monitoring report (“DMR”) for the monitoring period ending September 30, 2009 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1, and TPDES Permit No. WQ0003068000, Monitoring and Reporting Requirements No. 1].
2. Failed to comply with permitted effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE 305.125(1), and TPDES Permit No. WQ0003068000, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer owns or operates the Facility as of February 11, 2011

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: March 28, 2011, May 11, 2011
Date(s) Green Card(s) Signed: Unsuccessful, May 13, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: James Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Samuel Short, Water Enforcement Section, (512) 239-5363

TCEQ Regional Contact: Noel Luper, Tyler Regional Office, (903) 535-5174

Respondent: Imran Kahn, President, Cheettah Investments, Inc., General Partner of Head Family Partnership, Ltd., 304 Roma Court, Allen, Texas 75103; and 15481 FM 968, Longview, Texas 75602

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Dec-2010	Screening	7-Dec-2010	EPA Due	
	PCW	3-Mar-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Head Family Partnership, Ltd.
Reg. Ent. Ref. No.	RN102380474
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40817	No. of Violations	2
Docket No.	2010-1960-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jordan Jones
		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	\$4,100
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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.

Compliance History	70.0% Enhancement	Subtotals 2, 3, & 7	\$2,870
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Notes: Enhancement for 13 months of self-reported effluent violations and one NOV with same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,108
 Approx. Cost of Compliance: \$10,300
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,970
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-8.8%	Adjustment	-\$615
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount.

Final Penalty Amount	\$6,355
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,355
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$6,355
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Screening Date 7-Dec-2010

Docket No. 2010-1960-IWD-E

PCW

Respondent Head Family Partnership, Ltd.

Case ID No. 40817

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102380474

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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>)	14	70%
	Other written NOVs	0	0%
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) 70%

>> 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 13 months of self-reported effluent violations and one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date 7-Dec-2010

Docket No. 2010-1960-IWD-E

PCW

Respondent Head Family Partnership, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 40817

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102380474

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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. WQ0003068000, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on October 26, 2010. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 243 Number of violation days

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,082

Violation Final Penalty Total \$6,200

This violation Final Assessed Penalty (adjusted for limits) \$6,200

Effluent Limit Violation Table

Respondent	Head Family Partnership, Ltd.
ID Number(s)	TPDES Permit No. WQ0003068000, Case No. 40817
Docket Number	2010-1960-IWD-E
Enf. Coordinator	Jordan Jones

Corresponds to Violation Number: 1

EFFLUENT PARAMETER					
Permit Limit					
Effluent Parameter	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Daily Max. Conc.	CBOD5 Daily Avg. Conc.	Total Ammonia Nitrogen Daily Avg. Conc.	Total Ammonia Nitrogen Daily Max. Conc.
<i>Permit Limit</i>	20 mg/L	45 mg/L	20 mg/L	10 mg/L	15 mg/L
August 2009	C	C	C	C	19.5
September 2009	C	C	C	13.37	24.9
October 2009	20.8	C	24.3	C	C
December 2009	32.4	46	C	C	C
February 2010	C	C	C	11.8	19.2
March 2010	C	C	C	C	18
April 2010	C	C	C	10.6	32.4
May 2010	C	C	C	13.9	21
	mg/L = milligrams per liter		C = compliant		
	Avg. = average		Max. = maximum		
	Conc. = concentration		CBOD5 = carbonaceous biochemical oxygen demand (5-day)		

Economic Benefit Worksheet

Respondent Head Family Partnership, Ltd.
Case ID No. 40817
Req. Ent. Reference No. RN102380474
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Aug-2009	30-Oct-2011	2.16	\$1,082	n/a	\$1,082

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,082

Screening Date 7-Dec-2010

Docket No. 2010-1960-IWD-E

PCW

Respondent Head Family Partnership, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 40817

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102380474

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0003068000, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending September 30, 2009, as documented during a record review conducted on October 26, 2010. Specifically, the Respondent failed to include the the total residual chlorine and carbonaceous biochemical oxygen demand 5-day data.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%
Less than 30% of the rule requirement was not met.					
Adjustment					\$9,900

\$100

Violation Events

Number of Violation Events 1 30 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$100
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26 Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent Head Family Partnership, Ltd.
Case ID No. 40817
Req. Ent. Reference No. RN102380474
Media Water Quality
Violation No. 2

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)	\$300	30-Sep-2009	1-Jul-2011	1.75	\$26	n/a	\$26

Notes for DELAYED costs

The estimated cost to to submit and prepare a revised DMR to include all required data. Date Required is the date the report was due. 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

\$300

TOTAL

\$26

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Compliance History

Customer/Respondent/Owner-Operator:	CN602766271	Head Family Partnership, Ltd.	Classification: AVERAGE	Rating: 0.54
Regulated Entity:	RN102380474	NATIONAL TRUCK STOP	Classification: AVERAGE	Site Rating: 0.54
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		37769
	WASTEWATER	PERMIT		WQ0003068000
	WASTEWATER	EPA ID		TX0104451
	WASTEWATER LICENSING	LICENSE		WQ0003068000

Location: LOCATED ON THE SOUTH SIDE OF THE INTERSECTION OF INTERSTATE HIGHWAY 20 AND FARM-TO-MARKET ROAD 968 APPROXIMATELY 1500 FEET EAST OF LOOP 281, HARRISON COUNTY, TEXAS

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: December 07, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 07, 2005 to December 07, 2010

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

Name: Jordan Jones Phone: (512) 239-2569

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	01/26/2006	(437624)
2	03/13/2006	(479345)
3	03/21/2006	(479346)
4	12/27/2005	(479349)
5	01/17/2006	(479350)
6	04/20/2006	(505115)
7	06/12/2006	(505116)
8	06/28/2006	(505117)
9	11/06/2006	(514644)
10	07/21/2006	(527421)
11	09/05/2006	(527422)
12	09/22/2006	(527423)
13	12/18/2006	(531091)
14	10/19/2006	(551155)
15	11/20/2006	(551156)
16	12/18/2006	(551157)
17	02/26/2007	(587774)
18	03/30/2007	(587775)
19	04/16/2007	(587776)
20	05/29/2007	(587777)
21	06/20/2007	(587778)
22	01/22/2007	(587779)
23	10/26/2007	(595470)
24	07/18/2007	(605207)
25	08/28/2007	(605208)

26	01/25/2008	(609752)
27	10/01/2007	(628614)
28	10/26/2007	(628615)
29	11/26/2007	(628616)
30	12/20/2007	(628617)
31	02/19/2008	(676467)
32	01/29/2008	(676468)
33	03/14/2008	(694928)
34	04/14/2008	(694929)
35	05/27/2008	(694930)
36	01/06/2009	(707726)
37	06/16/2008	(716426)
38	07/21/2008	(716427)
39	09/03/2008	(716428)
40	09/15/2008	(716429)
41	03/31/2009	(727138)
42	09/30/2008	(731883)
43	10/17/2008	(731884)
44	12/17/2008	(731885)
45	02/19/2009	(755291)
46	01/02/2008	(755292)
47	01/22/2009	(755293)
48	09/16/2009	(767010)
49	03/13/2009	(772383)
50	04/20/2009	(772384)
51	05/18/2009	(772385)
52	01/29/2010	(790177)
53	02/19/2010	(817162)
54	08/05/2009	(817163)
55	09/22/2009	(817164)
56	09/22/2009	(817165)
57	11/12/2009	(817166)
58	12/09/2009	(817167)
59	12/23/2009	(817168)
60	01/25/2010	(817169)
61	04/12/2010	(835246)
62	04/30/2010	(862007)
63	05/31/2010	(862008)
64	12/03/2010	(871994)
65	04/29/2010	(875476)

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

Date:	08/31/2006 (527423)	CN602766271	
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:	08/31/2007 (628614)	CN602766271	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2008 (694930)	CN602766271	
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date: 12/31/2008 (755293) CN602766271
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2009 (772383) CN602766271
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/27/2009 (727138) CN602766271
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure of the permittee to meet the effluent limit for Chemical Oxygen Demand (COD) and Total Suspended Solids (TSS) for a grab sample that was collected during the February 5, 2009 Comprehensive Compliance Investigation.
 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 have adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastes.
 Date: 08/31/2009 (817165) CN602766271
 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 (817166) CN602766271
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2009 (817167) CN602766271
 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 (817169) CN602766271
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2010 (835246) CN602766271
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2010 (875476) CN602766271
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2010 (862007) CN602766271
 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: 05/31/2010 (862008)

CN602766271

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
- K. Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HEAD FAMILY PARTNERSHIP,
LTD.;
RN102380474**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1960-IWD-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Head Family Partnership, Ltd. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated an industrial wastewater system located on the south side of the intersection of Interstate Highway 20 and Farm-to-Market Road 968, approximately 1,500 feet east of Loop 281 in Harrison County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During a record review conducted on October 26, 2010, a TCEQ Central Office investigator documented that Respondent violated the following requirements:
 - a. Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending September 30, 2009. Specifically, Respondent failed to include the total residual chlorine and carbonaceous biochemical oxygen demand ("CBOD5") five-day data in the DMR; and

b. Failed to comply with permitted effluent limits, shown in the table below.

Effluent Parameter	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Daily Max. Conc.	CBOD5 Daily Avg. Conc.	Total Ammonia Nitrogen Daily Avg. Conc.	Total Ammonia Nitrogen Daily Max. Conc.
<i>Permit Limit</i>	20 mg/L	45 mg/L	20 mg/L	10 mg/L	15 mg/L
August 2009	C	C	C	C	19.5
September 2009	C	C	C	13.37	24.9
October 2009	20.8	C	24.3	C	C
December 2009	32.4	46	C	C	C
February 2010	C	C	C	11.8	19.2
March 2010	C	C	C	C	18
April 2010	C	C	C	10.6	32.4
May 2010	C	C	C	13.9	21
	mg/L = milligrams per liter		C = compliant		
	Avg. = average		Max. = maximum		
	Conc. = concentration		CBOD5 = carbonaceous biochemical oxygen demand (5-day)		

3. Respondent received notice of the violations on or about December 6, 2010.
4. The Executive Director recognizes that as of February 11, 2011 Respondent no longer owns or operates the Facility.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Head Family Partnership, Ltd. (the "EDPRP") in the TCEQ Chief Clerk's office on March 28, 2011. Service was unsuccessful.
6. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Head Family Partnership, Ltd. (the "EDFARP") in the TCEQ Chief Clerk's office on May 11, 2011.
7. By letter dated May 11, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on May 13, 2011, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDFARP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit a complete DMR for the monitoring period ending September 30, 2009, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1, and TPDES Permit No WQ0003068000, Monitoring and Reporting Requirements No. 1.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE 305.125(1), and TPDES Permit No. WQ0003068000, Effluent Limitations and Monitoring Requirements No. 1.
4. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of six thousand three hundred and fifty-five dollars (\$6,355.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of six thousand three hundred fifty-five dollars (\$6,355.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Head Family Partnership, Ltd.; Docket No. 2010-1960-IWD-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

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COUNTY OF TRAVIS

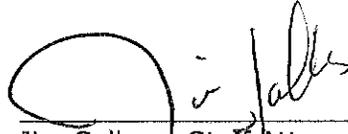
"My name is Jim Sallans I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Head Family Partnership, Ltd." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 28, 2011. The Executive Director was not able to achieve service of the EDPRP.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Head Family Partnership, Ltd." (the "EDFARP") was filed in the TCEQ Chief Clerk's office on May 11, 2011.

The EDFARP was mailed to Respondent's last known address on May 11, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on May 13, 2011, as evidenced by the signature on the card.

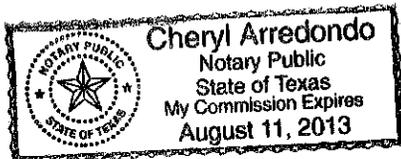
More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing."



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28th day of June A.D. 2011.



Cheryl Arredondo
Notary Signature