

Executive Summary – Enforcement Matter – Case No. 41546
PK-RE DEVELOPMENT COMPANY, INC.
RN102185998
Docket No. 2011-0027-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Oak Shores WWTP, located approximately 12,000 feet southwest of the intersection of Farm-to-Market Road 2222 and City Park Road, between Lake Austin Metropolitan Park and Lake Austin, Travis County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: Yes

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 16, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$4,177

Amount Deferred for Expedited Settlement: \$835

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$3,342

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. 41546
PK-RE DEVELOPMENT COMPANY, INC.
RN102185998
Docket No. 2011-0027-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 14, 2010

Date(s) of NOE(s): December 10, 2010

Violation Information

1. Failed to prevent the unauthorized discharge of raw wastewater. Specifically, on June 12, 2009, approximately 2,000 gallons of raw wastewater was discharged from a broken clean-out on a force main onto the ground and into a dry creek near the intersection of Tumbuoy and Pearce [TEX. WATER CODE § 26.121(a)(1), TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014286001, Permit Conditions 2.g.].
2. Failed to comply with permitted effluent limits for total suspended solids and biochemical oxygen demand [TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014286001, Effluent Limitations and Monitoring Requirements: Final Phase, A].
3. Failed to submit noncompliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more within five days of becoming aware of the noncompliance. Specifically, permitted effluent limits were exceeded by 40% or more during September 2009, October 2009, November 2009, and April 2010 [TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014286001, Monitoring Requirements No. 7.c.].
4. Failed to record effluent sample analysis results as specified in the permit. Specifically, the Respondent failed to record the results of quality assurance records for chlorine analysis [30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, and 319.11(e) and TCEQ Permit No. WQ0014286001, Monitoring Requirements No. 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. By June 12, 2009, capped the broken clean-out to stop the unauthorized discharge near the intersection of Tumbuoy and Pearce, and cleaned and disinfected the affected area;
- b. By May 31, 2010, cleaned the effluent basin, increased aeration, wasted sludge, and returned to compliance with permitted effluent limits; and

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c. By November 22, 2010, updated operational guidance to ensure that the results of quality assurance records for chlorine analysis are recorded and submitted noncompliance notifications for September 2009, October 2009, November 2009, and April 2010.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update operational guidance to ensure that exceedances of the permitted effluent limits by 40% or more are properly reported to the TCEQ; and
- 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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Lanae Foard, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-2554; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Russell Eppright, President, PK-RE DEVELOPMENT COMPANY, INC.,
P. O. Box 163265, Austin, Texas 78733

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Apr-2011	Screening	29-Apr-2011	EPA Due	
	PCW	7-May-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	PK-RE DEVELOPMENT COMPANY, INC.
Reg. Ent. Ref. No.	RN102185998
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41546	No. of Violations	4
Docket No.	2011-0027-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$8,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **2.0%** Enhancement **Subtotals 2, 3, & 7** **\$162**

Notes: Enhancement recommended for one NOV with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,025**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts: \$270
Approx. Cost of Compliance: \$10,625
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,237**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-42.3%** **Adjustment** **-\$3,060**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction so that reporting violations do not overly impact the penalty amount.

Final Penalty Amount **\$4,177**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$4,177**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$835**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$3,342**

Screening Date 29-Apr-2011

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PCW

Respondent PK-RE DEVELOPMENT COMPANY, INC.

Policy Revision 2 (September 2002)

Case ID No. 41546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185998

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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>)	0	0%
	Other written NOVs	1	2%
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) 2%

>> 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 recommended for one NOV with dissimilar violations.

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

Screening Date 29-Apr-2011

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PCW

Respondent PK-RE DEVELOPMENT COMPANY, INC.

Policy Revision 2 (September 2002)

Case ID No. 41546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185998

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), Tex. Admin. Code § 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0014286001, Permit Conditions 2.g

Violation Description Failed to prevent the unauthorized discharge of raw wastewater, as documented during an investigation conducted on October 14, 2010. Specifically, on June 12, 2009, approximately 2,000 gallons of raw wastewater was discharged from a broken clean-out on a force main onto the ground and into a dry creek near the intersection of Tumbouy and Pearce.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

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 date of the discharge (June 12, 2009) to the date the discharge ceased and the area was cleaned (June 12, 2009).

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes: The Respondent achieved compliance on June 12, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$444

This violation Final Assessed Penalty (adjusted for limits) \$444

Economic Benefit Worksheet

Respondent PK-RE DEVELOPMENT COMPANY, INC.

Case ID No. 41546

Reg. Ent. Reference No. RN102185998

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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	12-Jun-2009	12-Jun-2009	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

Estimated cost to cap the broken clean-out to stop the unauthorized discharge and to clean and disinfect the affected area. Date required is the date of the unauthorized discharge. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$0
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Screening Date 29-Apr-2011

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PCW

Respondent PK-RE DEVELOPMENT COMPANY, INC.

Policy Revision 2 (September 2002)

Case ID No. 41546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185998

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 2

Rule Cite(s)

Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0014286001, Effluent Limitations and Monitoring Requirements: Final Phase, A

Violation Description

Failed to comply with permitted effluent limits, as documented during an investigation conducted on October 14, 2010 and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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 3

121 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$750

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

Notes The Respondent achieved compliance by May 31, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$233

Violation Final Penalty Total \$1,333

This violation Final Assessed Penalty (adjusted for limits) \$1,333

Economic Benefit Worksheet

Respondent PK-RE DEVELOPMENT COMPANY, INC.
Case ID No. 41546
Reg. Ent. Reference No. RN102185998
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	30-Sep-2009	31-May-2010	0.67	\$11	\$222	\$233
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

Estimated cost to clean the effluent basin, increase aeration, waste sludge, and return to compliance with permitted effluent limits. Date required is the initial date of noncompliance. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$233

Screening Date 29-Apr-2011

Docket No. 2011-0027-MWD-E

PCW

Respondent PK-RE DEVELOPMENT COMPANY, INC.

Policy Revision 2 (September 2002)

Case ID No. 41546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185998

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 3

Rule Cite(s) Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0014286001, Monitoring Requirements No. 7.c

Violation Description Failed to submit noncompliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more within five working days of becoming aware of the noncompliance, as documented during an investigation conducted on October 14, 2010. Specifically, permitted effluent limits were exceeded by 40% or more during September 2009, October 2009, November 2009, and April 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes 100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 121

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

Violation Base Penalty \$4,000

Four single events are recommended. One for each month that a noncompliance notification was not submitted.

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 \$36

Violation Final Penalty Total \$2,355

This violation Final Assessed Penalty (adjusted for limits) \$2,355

Economic Benefit Worksheet

Respondent PK-RE DEVELOPMENT COMPANY, INC.
Case ID No. 41546
Reg. Ent. Reference No. RN102185998
Media Water Quality
Violation No. 3

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	\$125	5-Sep-2009	22-Nov-2010	1.21	\$8	n/a	\$8
Training/Sampling	\$250	5-Sep-2009	3-Dec-2011	2.24	\$28	n/a	\$28
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

Estimated cost to update operational guidance to ensure that exceedances of the permitted effluent limits by 40% or more are properly reported to the TCEQ. Date required is the date the first report was due. Final dates are the date the noncompliance notifications were received and 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

\$375

TOTAL

\$36

Screening Date 29-Apr-2011

Docket No. 2011-0027-MWD-E

PCW

Respondent PK-RE DEVELOPMENT COMPANY, INC.

Policy Revision 2 (September 2002)

Case ID No. 41546

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185998

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 319.6, and 319.11(e) and TCEQ Permit No. WQ0014286001, Monitoring Requirements No. 3

Violation Description Failed to record effluent sample analysis results as specified in the permit, as documented during an investigation conducted on October 14, 2010. Specifically, the Respondent failed to record the results of quality assurance records for chlorine analysis.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			X	1%

Matrix Notes More than 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 39

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$25

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

Notes The Respondent achieved compliance on November 22, 2010.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$44

This violation Final Assessed Penalty (adjusted for limits) \$44

Economic Benefit Worksheet

Respondent PK-RE DEVELOPMENT COMPANY, INC.
Case ID No. 41546
Reg. Ent. Reference No. RN102185998
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$250	14-Oct-2010	22-Nov-2010	0.11	\$1	n/a	\$1
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

Estimated cost to update operational guidance to ensure that the results of quality assurance records for chlorine analysis are recorded. Date required is the date the first report was due. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$1

EFFLUENT VIOLATION TABLE
PK-RE DEVELOPMENT COMPANY, INC.
TCEQ Permit No. WQ0014286001
Docket No. 2011-0027-MWD-E

Permitted Effluent Limits	Monitoring Period				
	September 2009	October 2009	November 2009	December 2009	April 2010
TSS Daily Avg. Conc. Limit = 15 mg/L	92	21	21	20	21
TSS Daily Max. Conc. Limit = 40 mg/L	92	c	c	c	c
TSS Single Grab Max. Conc. Limit = 60 mg/L	92	c	c	c	c
BOD Daily Avg. Conc. Limit = 10 mg/L	29	15	23	c	16
BOD Daily Max. Conc. Limit = 25 mg/L	61	33	32	c	36
BOD Single Grab Max. Conc. Limit = 35 mg/L	61	c	c	c	36

TSS = total suspended solids
 avg. = average
 max. = maximum

BOD = biochemical oxygen demand
 c = compliant
 conc. = concentration

Compliance History

Customer/Respondent/Owner-Operator: CN602505117 PK-RE DEVELOPMENT COMPANY, INC. Classification: Rating: 1.88
AVERAGE
Regulated Entity: RN102185998 OAK SHORES WWTP Classification: AVERAGE Site Rating: 0.75

WQ0014286001

ID Number(s): WASTEWATER PERMIT
Location: Approximately 12,000 feet southwest of the intersection of
Farm-to-Market Road 2222 and City Park Road, between
Lake Austin Metropolitan Park and Lake Austin in Travis County, Texas.

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: May 17, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 17, 2006 to May 17, 2011

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

Name: Lanae Foard Phone: (512) 239-2554

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 03/27/2009 (739666)
2 07/14/2009 (761953)
3 10/02/2009 (777940)
4 12/10/2010 (870616)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/27/2009 (739666)CN602505117
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 demonstrate adequate compliance with the requirements for 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 wastewater.

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
PK-RE DEVELOPMENT
COMPANY, INC.
RN102185998

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0027-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 PK-RE DEVELOPMENT COMPANY, INC. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 12,000 feet southwest of the intersection of Farm-to-Market Road 2222 and City Park Road, between Lake Austin Metropolitan Park and Lake Austin, Travis 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 December 15, 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 Four Thousand One Hundred Seventy-Seven Dollars (\$4,177) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Three Hundred Forty-Two Dollars (\$3,342) of the administrative penalty and Eight Hundred Thirty-Five Dollars (\$835) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By June 12, 2009, capped the broken clean-out to stop the unauthorized discharge near the intersection of Tumbuoy and Pearce, and cleaned and disinfected the affected area;
 - b. By May 31, 2010, cleaned the effluent basin, increased aeration, wasted sludge, and returned to compliance with permitted effluent limits; and
 - c. By November 22, 2010, updated operational guidance to ensure that the results of quality assurance records for chlorine analysis are recorded and submitted noncompliance notifications for September 2009, October 2009, November 2009, and April 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of raw wastewater, in violation of TEX. WATER CODE § 26.121(a)(1), TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014286001, Permit Conditions 2.g, as documented during an investigation conducted on October 14, 2010. Specifically, on June 12, 2009, approximately 2,000 gallons of raw wastewater was discharged from a broken clean-out on a force main onto the ground and into a dry creek near the intersection of Tumbuoy and Pearce.

2. Failed to comply with permitted effluent limits, in violation of TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014286001, Effluent Limitations and Monitoring Requirements: Final Phase, A, as documented during an investigation conducted on October 14, 2010 and shown in the following violation table:

EFFLUENT VIOLATION TABLE					
Permitted Effluent Limits	Monitoring Period				
	September 2009	October 2009	November 2009	December 2009	April 2010
TSS Daily Avg. Conc. Limit = 15 mg/L	92	21	21	20	21
TSS Daily Max. Conc. Limit = 40 mg/L	92	c	c	c	c
TSS Single Grab Max. Conc. Limit = 60 mg/L	92	c	c	c	c
BOD Daily Avg. Conc. Limit = 10 mg/L	29	15	23	c	16
BOD Daily Max. Conc. Limit = 25 mg/L	61	33	32	c	36
BOD Single Grab Max. Conc. Limit = 35 mg/L	61	c	c	c	36

TSS = total suspended solids

avg. = average

max. = maximum

BOD = biochemical oxygen demand

c = compliant

conc. = concentration

3. Failed to submit noncompliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more within five days of becoming aware of the noncompliance, in violation of TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014286001, Monitoring Requirements No. 7.c, as documented during an investigation conducted on October 14, 2010. Specifically, permitted effluent limits were exceeded by 40% or more during September 2009, October 2009, November 2009, and April 2010.

4. Failed to record effluent sample analysis results as specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, and 319.11(e) and TCEQ Permit No. WQ0014286001, Monitoring Requirements No. 3, as documented during an investigation conducted on October 14, 2010. Specifically, the Respondent failed to record the results of quality assurance records for chlorine analysis.

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: PK-RE DEVELOPMENT COMPANY, INC., Docket No. 2011-0027-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 after the effective date of this Agreed Order, update operational guidance to ensure that exceedances of the permitted effluent limits by 40% or more are properly reported to the TCEQ; and
 - 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
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Robert H. Hyle
For the Executive Director

9/27/11
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.

Russell Eppright
Signature

9/2/11
Date

Russell Eppright
Name (Printed or typed)
Authorized Representative of
PK-RE DEVELOPMENT COMPANY, INC.

President
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.