

**Executive Summary – Enforcement Matter – Case No. 41692**  
**Lajitas Municipal Services Company LLC**  
**RN102079365**  
**Docket No. 2011-0793-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

Yes

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

Lajitas Water Treatment Plant, located approximately 2,000 feet south of Ranch-to-Market Road 170 and 1,800 feet east of the Rio Grande River, Brewster County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 2, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,260

**Amount Deferred for Expedited Settlement:** \$252

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

**Total Paid to General Revenue:** \$1,008

**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. 41692  
Lajitas Municipal Services Company LLC  
RN102079365  
Docket No. 2011-0793-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** May 9, 2011  
**Date(s) of NOE(s):** May 19, 2011

***Violation Information***

1. Failed to timely submit discharge monitoring reports (“DMRs”) for the monitoring periods ending April 30, 2010 through February 28, 2011 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0014282001, Monitoring and Reporting Requirements No. 1].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014282001, Sludge Provisions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures at the Facility:

- a. By June 17, 2011, conducted employee training to ensure that self-reporting requirements are properly accomplished; and
- b. On July 7, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010 and the DMRs for the monitoring periods ending April 30, 2010 through February 28, 2011.

**Technical Requirements:**

N/A

***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. 41692**  
**Lajitas Municipal Services Company LLC**  
**RN102079365**  
**Docket No. 2011-0793-MWD-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Samuel Short, Enforcement Division,  
Enforcement Team 3, MC 169, (512) 239-5363; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412.

**TCEQ SEP Coordinator:** N/A

**Respondent:** Edwin Leslie, President/CEO, Lajitas Municipal Services Company LLC,  
14911 Quorum Drive, Suite 340, Dallas, Texas 75254  
Kelcy Warren, Managing Member, Lajitas Capital Partners, 3738 Oak Lawn Avenue,  
Dallas, Texas 75219

**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>	23-May-2011	<b>Screening</b>	23-May-2011	<b>EPA Due</b>	
	<b>PCW</b>	24-May-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Lajitas Municipal Services Company LLC		
<b>Reg. Ent. Ref. No.</b>	RN102079365		
<b>Facility/Site Region</b>	6-El Paso	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41692	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-0793-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Samuel Short
		<b>EC's Team</b>	Enforcement Team 3
<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>	\$1,200
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$60

Notes: Enhancement for one NOV for the same/similar violations within the last five years.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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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>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$31  
 Approx. Cost of Compliance \$575  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,260
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$1,260
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,260
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$252
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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>	\$1,008
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Screening Date 23-May-2011

Docket No. 2011-0793-MWD-E

PCW

Respondent Lajitas Municipal Services Company LLC

Policy Revision 2 (September 2002)

Case ID No. 41692

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102079365

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### 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> )	1	5%
	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)** 5%

>> 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 NOV for the same/similar violations within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

Screening Date 23-May-2011

Docket No. 2011-0793-MWD-E

PCW

Respondent Lajitas Municipal Services Company LLC

Policy Revision 2 (September 2002)

Case ID No. 41692

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102079365

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014282001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit discharge monitoring reports ("DMRs") for the monitoring periods ending April 30, 2010 through February 28, 2011.

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	1%

Matrix Notes At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 11 Number of violation days 368

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

Violation Base Penalty \$1,100

Eleven single events are recommended (one for each DMR).

Good Faith Efforts to Comply

0.0% Reduction \$0

	Reduction	
	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 \$1,100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$1,155

This violation Final Assessed Penalty (adjusted for limits) \$1,155

## Economic Benefit Worksheet

**Respondent** Lajitas Municipal Services Company LLC  
**Case ID No.** 41692  
**Reg. Ent. Reference No.** RN102079365  
**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	\$275	20-May-2010	7-Jul-2011	1.13	\$16	n/a	\$16
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)	\$250	20-May-2010	17-Jun-2011	1.08	\$13	n/a	\$13

Notes for DELAYED costs

The estimated cost to submit the DMRs (\$25 per report). Date required is the date the first report was due and the final date is the date the reports were submitted.

The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports. Date required is the date the first report was due and the 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

\$525

**TOTAL**

\$29

Screening Date 23-May-2011

Docket No. 2011-0793-MWD-E

PCW

Respondent Lajitas Municipal Services Company LLC

Policy Revision 2 (September 2002)

Case ID No. 41692

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102079365

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014282001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010, as documented during a record review conducted on May 9, 2011.

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%

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 264 Number of violation days

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

0.0% Reduction \$0

	Before NOV	NOV to EDRP/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 \$2

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent** Lajitas Municipal Services Company LLC  
**Case ID No.** 41692  
**Reg. Ent. Reference No.** RN102079365  
**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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	1-Sep-2010	7-Jul-2011	0.85	\$2	n/a	\$2
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

The estimated cost to submit the annual sludge report for the monitoring period ending July 31, 2010. Date required is the date the report was due and the final date is the date the report was submitted. The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished is included in the economic benefit for violation no. 1.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

**TOTAL**

\$2

## Compliance History

Customer/Respondent/Owner-Operator:	CN603406604	Lajitas Municipal Services Company LLC	Classification: AVERAGE	Rating: 0.34
Regulated Entity:	RN102079365	LAJITAS WATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 0.34
ID Number(s):	WATER LICENSING	LICENSE		0220018
	WASTEWATER	EPA ID		TX0082210
	WASTEWATER	EPA ID		TX0082210
	WASTEWATER	PERMIT		WQ0014282001
	WASTEWATER	EPA ID		TX0082210
	WASTEWATER	PERMIT		WQ0004378000
Location:	APPROX 2000FT S OF RM170 AND 1800FT E OF RIO GRANDE RIVER IN BREWSTER COUNTY, TEXAS			
TCEQ Region:	REGION 06 - EL PASO			
Date Compliance History Prepared:	May 23, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 23, 2006 to May 23, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Samuel Short	Phone:	(512) 239-5363	

### 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? Yes
3. If Yes, who is the current owner/operator? OWN      Lajitas Municipal Services Company LLC
  
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN      Lajitas Utility Co., Inc.
5. When did the change(s) in owner or operator occur? 02/08/2010      OWN      Lajitas Utility Co., Inc.
  
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	06/09/2006	(503443)
2	06/09/2006	(503444)
3	10/11/2006	(511803)
4	07/18/2006	(525810)
5	08/30/2006	(525811)
6	09/14/2006	(525812)
7	08/03/2007	(570982)
8	10/27/2006	(624042)
9	01/02/2008	(624043)
10	10/27/2006	(624044)
11	01/02/2008	(624045)
12	01/02/2008	(624046)

13	01/02/2008	(624047)
14	01/02/2008	(624048)
15	01/02/2008	(624049)
16	01/02/2008	(624050)
17	01/02/2008	(675098)
18	01/08/2008	(675099)
19	04/24/2008	(679849)
20	04/20/2009	(689460)
21	05/12/2008	(693460)
22	05/12/2008	(693461)
23	05/12/2008	(693462)
24	10/21/2008	(714715)
25	10/21/2008	(714716)
26	10/21/2008	(714717)
27	08/11/2008	(714718)
28	08/11/2008	(714719)
29	08/11/2008	(714720)
30	10/17/2008	(714721)
31	10/17/2008	(714722)
32	10/21/2008	(714723)
33	10/17/2008	(714724)
34	10/21/2008	(714725)
35	10/21/2008	(714726)
36	10/21/2008	(714727)
37	11/18/2008	(730652)
38	12/08/2008	(730653)
39	02/11/2009	(753876)
40	02/11/2009	(753877)
41	03/23/2009	(771243)
42	04/16/2009	(771244)
43	05/08/2009	(771245)
44	02/18/2010	(788370)
45	02/10/2010	(813694)
46	06/03/2009	(813695)
47	07/20/2009	(813696)
48	08/04/2009	(813697)
49	09/08/2009	(813698)
50	10/05/2009	(813699)
51	11/09/2009	(813700)
52	01/11/2010	(813701)
53	03/08/2010	(834040)
54	04/15/2010	(834041)
55	05/20/2011	(919145)

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

Date: 04/24/2008 (679849) CN603406604

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		

Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

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  
LAJITAS MUNICIPAL SERVICES  
COMPANY LLC  
RN102079365

§  
§  
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§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2011-0793-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 Lajitas Municipal Services Company LLC ("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 2,000 feet south of Ranch-to-Market Road 170 and 1,800 feet east of the Rio Grande River in Brewster County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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 May 24, 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 Two Hundred Sixty Dollars (\$1,260) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Eight Dollars (\$1,008) of the administrative penalty and Two Hundred Fifty-Two Dollars (\$252) 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 17, 2011, conducted employee training to ensure that self-reporting requirements are properly accomplished; and
  - b. On July 7, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010 and the discharge monitoring reports ("DMRs") for the monitoring periods ending April 30, 2010 through February 28, 2011.
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 timely submit DMRs for the monitoring periods ending April 30, 2010 through February 28, 2011, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014282001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on May 9, 2011.
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No.

WQ0014282001, Sludge Provisions, as documented during a record review conducted on May 9, 2011.

### 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: Lajitas Municipal Services Company LLC, Docket No. 2011-0793-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Paul D. Hyle*  
For the Executive Director

9/12/11  
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.

*Kelcy Warren*  
Signature *Kelcy Warren*  
*Managing Member*

9-25-2011  
Date

*Lajitas Capital Partners*  
Name (Printed or typed)  
Authorized Representative of  
Lajitas Municipal Services Company LLC

*Managing Member*  
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.