

Executive Summary – Enforcement Matter – Case No. 40076  
STONE HEDGE UTILITY CO., INC.  
RN102334992  
Docket No. 2010-1185-MWD-E

**Order Type:**  
Agreed Order

**Findings Order Justification:**  
N/A

**Media:**  
MWD

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
Approximately 6,100 feet northeast of the intersection of State Highway 105 and State Highway 336,  
Montgomery County

**Type of Operation:**  
wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions:	2011-0776-MWD-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** October 14, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$13,994

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$414

**Total Due to General Revenue:** \$13,580

Payment Plan: 35 payments of \$388 each

**SEP Conditional Offset:** N/A

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

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

STONE HEDGE UTILITY CO., INC.

RN102334992

Docket No. 2010-1185-MWD-E

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** May 6, 2010  
**Date(s) of NOV(s):** See Compliance History – 25 NOVs  
**Date(s) of NOE(s):** July 1, 2010

***Violation Information***

1. Failed to comply with permitted effluent limits [TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0014709001, Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to submit the noncompliance notifications for any effluent violations which deviate from the permitted effluent limitations by more than 40% [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014709001 Monitoring and Reporting Requirements No. 7.c.].
3. Failed to provide a certified operator to inspect the wastewater treatment plant (“WWTP”) daily [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014709001 Other Requirements No. 8].
4. Failed to timely submit effluent monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(17), 319.4 and 319.7(d); and TPDES Permit No. WQ0014709001 Monitoring and Reporting Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**  
N/A

**Technical Requirements:**

1. Immediately, commence operating the Facility under the direct supervision of a properly certified operator seven days a week;
2. Within 15 days, submit a revised DMR for the monitoring period ending March 31, 2010, to include the correct data for CBOD5;
3. Within 30 days; update the Facility’s operational guidance and conduct training to ensure that self reporting requirements are properly accomplished, including the timely submittal of signed and certified DMRs and written reports for effluent violations which deviate by more than 40% from the permitted limit are properly submitted to the TCEQ; and
4. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014709001 and Technical Requirements Nos. 1 through 3.

***Litigation Information***

**Date Petition(s) Filed:** December 30, 2010  
**Date Answer(s) Filed:** January 18, 2011  
**SOAH Referral Date:** February 23, 2011  
**Hearing Date(s):**  
Preliminary hearing: April 14, 2011  
Evidentiary hearing: September 15, 2011  
**Settlement Date:** September 15, 2011

**Executive Summary – Enforcement Matter – Case No. 40076**  
**STONE HEDGE UTILITY CO., INC.**  
**RN102334992**  
**Docket No. 2010-1185-MWD-E**

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***Contact Information***

**TCEQ Attorneys:** Ms. Stephanie J. Frazee, Litigation Division, (512) 239-3400  
Ms. Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ SEP Coordinator:** N/A

**TCEQ Enforcement Coordinator:** Mr. Harvey Wilson, Waste Enforcement Section, (512) 239-0321

**TCEQ Regional Contact:** Mr. Stephen Smith, Houston Regional Office, (713) 767-3581

**Respondent:** Mr. Michael Martin, Sr., Director, Stone Hedge Utility Co., Inc. P.O. Box 426, Spring, Texas 77383

**Respondent's Attorney:** Mr. Les Romo, Attorney, 307 Shannon Lane, Georgetown, Texas 78628

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	6-Jul-2010	<b>Screening</b>	19-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>	22-Nov-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	Stone Hedge Utility Co., Inc.					
<b>Reg. Ent. Ref. No.</b>	RN102334992					
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	40076	<b>No. of Violations</b>	4			
<b>Docket No.</b>	2010-1185-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>	Cheryl Thompson			
		<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>	\$10,200
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	125.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$12,750
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<b>Notes</b>	Enhancement for 23 months of self-reported effluent violations and two NOV's for same/similar violations.		
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.			
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<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	\$2,177	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$15,370	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$22,950
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-39.0%	<b>Adjustment</b>	-\$8,956
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommend reduction in the penalty so that monthly self-reported effluent violations and the programmatic violation associated with Violation No. 2 do not overly impact the penalty amount. An enhancement is recommended to collected the avoided cost associated with Violation No. 3.		
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<b>Final Penalty Amount</b>	\$13,994
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$13,994
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.		
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<b>PAYABLE PENALTY</b>	\$13,994
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**Screening Date** 19-Jul-2010

**Docket No.** 2010-1185-MWD-E

**PCW**

**Respondent** Stone Hedge Utility Co., Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 40076

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102334992

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

### 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> )	25	125%
	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)** 125%

#### >> 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 23 months of self-reported effluent violations and two NOVs for same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 125%

Screening Date 19-Jul-2010

Docket No. 2010-1185-MWD-E

PCW

Respondent Stone Hedge Utility Co., Inc.

Policy Revision 2 (September 2002)

Case ID No. 40076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334992

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014709001 Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121

Violation Description Failed to comply with permitted effluent limits, as documented during a investigation conducted on May 6, 2010 and a record review conducted on May 18, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH3-N") and carbonaceous biochemical oxygen demand (5-day) ("CBOD5") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS"), flow and dissolved oxygen ("DO") 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 3 Number of violation days 212

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), Mark (x).

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,084

Violation Final Penalty Total \$4,116

This violation Final Assessed Penalty (adjusted for limits) \$4,116

	March 2009	Sept 2009	Oct 2009	Nov 2009	Dec 2009	Jan 2010	Feb 2010
<b>CBOD5 Daily Average Concentration 10 mg/L</b>	c	11	c	c	c	13.25	14
<b>CBOD5 Single Grab 35 mg/L</b>	c	47	c	c	c	c	c
<b>Ammonia Nitrogen Daily Concentration Average 3 mg/L</b>	c	c	c	c	6.52	13.051	c
<b>Ammonia Nitrogen Single Grab 15 mg/L</b>	c	c	c	c	22	30.6	c
<b>Ammonia Nitrogen Daily Average Loading .38 lbs/day</b>	c	c	c	c	0.478	c	c
<b>TSS Daily Average Concentration 15 mg/L</b>	c	c	c	21.8	35.38	32.425	23.65
<b>TSS Daily Average Loading 1.9 lbs/day</b>	c	c	c	2.05	c	c	c
<b>TSS Single Grab 60 mg/L</b>	c	c	c	c	c	c	c
<b>Flow Daily Average .015 MGD</b>	.017	c	.016	c	c	c	.018
<b>Dissolved Oxygen Monthly Minimum 6 mg/L</b>	c	c	c	5.97	c	c	c

mg/L = milligrams per liter lbs/day = pounds per day TSS – total suspended solids  
CBOD5 = carbonaceous biochemical oxygen demand (5-day) MGD = million gallons per day  
c= compliant

## Economic Benefit Worksheet

**Respondent** Stone Hedge Utility Co., Inc.  
**Case ID No.** 40076  
**Req. Ent. Reference No.** RN102334992  
**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-Mar-2009	31-May-2011	2.17	\$1,084	n/a	\$1,084

Notes for DELAYED costs

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

\$1,084

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Screening Date 19-Jul-2010

Docket No. 2010-1185-MWD-E

PCW

Respondent Stone Hedge Utility Co., Inc.

Policy Revision 2 (September 2002)

Case ID No. 40076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334992

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0014709001 Monitoring and Reporting Requirements No. 7.c. and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to submit the noncompliance notifications for any effluent violations which deviate from the permitted effluent limitations by more than 40%. Specifically, the notifications were not submitted for the months of November 2009, December 2009, January 2010, February 2010 and March 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 rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5 151 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Five single events are recommended (one event for each noncompliance notification).

Good Faith Efforts to Comply

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

\$0

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$6,860

This violation Final Assessed Penalty (adjusted for limits) \$6,860

## Economic Benefit Worksheet

**Respondent** Stone Hedge Utility Co., Inc.  
**Case ID No.** 40076  
**Req. Ent. Reference No.** RN102334992  
**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)	\$70	30-Jun-2009	31-Mar-2011	1.75	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to prepare and submit the notification of permit limit exceedance that are greater than 40% (\$10 per report). Date required is the month of the first effluent violation over 40%. Final date is the projected 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

\$70

TOTAL

\$6

Screening Date 19-Jul-2010

Docket No. 2010-1185-MWD-E

PCW

Respondent Stone Hedge Utility Co., Inc.

Policy Revision 2 (September 2002)

Case ID No. 40076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334992

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0014709001 Other Requirements No. 8 and 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to provide a certified operator to inspect the wastewater treatment plant ("WWTP") daily. Specifically, during the investigation it was documented that a certified operator inspects the WWTP five days a week instead of seven days a week.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 74 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the May 6, 2010 investigation date to the July 19, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,064

Violation Final Penalty Total \$1,372

This violation Final Assessed Penalty (adjusted for limits) \$1,372

## Economic Benefit Worksheet

**Respondent** Stone Hedge Utility Co., Inc.  
**Case ID No.** 40076  
**Req. Ent. Reference No.** RN102334992  
**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				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

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel	\$5,000	6-May-2010	19-Jul-2010	0.20	\$51	\$1,014	\$1,064
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

Estimated avoided cost (the annual salary difference) to have a certified operator inspect the wastewater treatment facility seven days a week instead of five days. Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance \$5,000

**TOTAL** \$1,064

Screening Date 19-Jul-2010

Docket No. 2010-1185-MWD-E

PCW

Respondent Stone Hedge Utility Co., Inc.

Policy Revision 2 (September 2002)

Case ID No. 40076

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334992

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 4

Rule Cite(s) TPDES Permit No. WQ0014709001 Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(17), 319.4 and 319.7(d)

Violation Description Failed to timely submit effluent monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring reports ("DMRs") for the monitoring periods ending April 2009 through March 2010 were submitted on May 5, 2010. Also, the DMR submitted for March 2010 failed to include correct data for carbonaceous biochemical oxygen demand (5-day) maximum concentration.

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 Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 12 365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,200

Twelve single events are recommended, one event for each DMR.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$1,200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23 Violation Final Penalty Total \$1,646

This violation Final Assessed Penalty (adjusted for limits) \$1,646

## Economic Benefit Worksheet

**Respondent** Stone Hedge Utility Co., Inc.  
**Case ID No.** 40076  
**Req. Ent. Reference No.** RN102334992  
**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
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	\$200	20-May-2009	31-Mar-2011	1.86	\$19	n/a	\$19
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-May-2009	5-May-2010	0.96	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to submit missing DMR, to conduct employee training and to update the Facility's operational guidance. Date required is the date the first DMR was due and the final date is the date of compliance for submitting the DMRs and projected date of compliance for conducting training.

### 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**

\$23

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600632897 Stone Hedge Utility Co., Inc. Classification: AVERAGE Rating: 2.21  
 Regulated Entity: RN102334992 STONE HEDGE UTILITY Classification: AVERAGE Site Rating: 2.21

ID Number(s):  
 WASTEWATER EPA ID TX0102962  
 WASTEWATER PERMIT WQ0014709001  
 WASTEWATER EPA ID TX0102962

Location: 6,100 feet northeast of the intersection of State Highway 105 and Loop 336, northeast of Conroe, Montgomery County

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 19, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 19, 2005 to July 19, 2010

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

Name: Cheryl Thompson Phone: (817) 588-5886

## 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: 9/1/2009 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	10/17/2007	(628324)	29	09/08/2009	(767890)
2	10/17/2007	(628325)	30	09/10/2009	(775370)
3	10/17/2007	(628326)	31	10/26/2009	(779564)
4	10/17/2007	(628327)	32	05/05/2010	(816922)
5	10/17/2007	(628328)	33	05/05/2010	(816923)
6	10/17/2007	(628329)	34	05/05/2010	(816924)
7	10/19/2007	(573920)	35	05/05/2010	(816925)
8	11/20/2007	(628330)	36	05/05/2010	(816926)
9	12/18/2007	(611493)	37	05/05/2010	(816927)
10	12/21/2007	(628331)	38	05/05/2010	(835158)
11	03/20/2008	(676371)	39	05/05/2010	(835159)
12	03/20/2008	(676372)	40	05/20/2010	(835160)
13	03/20/2008	(676373)	41	06/30/2010	(801600)
14	05/08/2008	(694800)	42	07/01/2010	(803207)
15	05/19/2008	(694801)			
16	06/20/2008	(694802)			
17	07/18/2008	(694803)			
18	08/20/2008	(716288)			
19	12/10/2008	(731791)			
20	12/11/2008	(731792)			
21	12/11/2008	(731793)			
22	02/12/2009	(704259)			
23	04/22/2009	(755178)			
24	04/22/2009	(755179)			
25	04/22/2009	(755180)			
26	04/22/2009	(755181)			
27	04/22/2009	(755182)			
28	06/19/2009	(744017)			

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

<b>Date:</b>	04/30/2007	(628324)	CN600632897
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		
<b>Date:</b>	05/31/2007	(628325)	CN600632897
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		
<b>Date:</b>	06/30/2007	(628326)	CN600632897
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		
<b>Date:</b>	07/31/2007	(628327)	CN600632897
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		
<b>Date:</b>	08/31/2007	(628328)	CN600632897
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		
<b>Date:</b>	09/30/2007	(628329)	CN600632897
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		
<b>Date:</b>	10/19/2007	(573920)	CN600632897
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to provide a primary flow measuring device.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)		
Description:	Failure to install a back flow prevention device for the potable water line when one is required.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.3		
Description:	Failure to maintain an operational high level alarm for the onsite lift station.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d)		
Description:	Failure to employ a certified operator when one is required.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 319, SubChapter A 319.1 Permit No. 14709-001 PERMIT		
Description:	Failure to submit Discharge Monitoring Reports.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.4		
Description:	Failure to collect a Carbonaceous Biochemical Oxygen Demand sample as required by the permit.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to maintain adequate chlorine residual monitoring and calibration records.		

	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to maintain compliance with effluent limitations.		
<b>Date:</b>	10/31/2007	(628330)	CN600632897	
	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		
<b>Date:</b>	11/30/2007	(628331)	CN600632897	
	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		
<b>Date:</b>	12/31/2007	(676373)	CN600632897	
	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		
<b>Date:</b>	01/31/2008	(676371)	CN600632897	
	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		
<b>Date:</b>	02/29/2008	(676372)	CN600632897	
	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		
<b>Date:</b>	06/30/2008	(694803)	CN600632897	
	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		
<b>Date:</b>	07/31/2008	(716288)	CN600632897	
	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		
<b>Date:</b>	08/31/2008	(731791)	CN600632897	
	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		
<b>Date:</b>	11/30/2008	(755181)	CN600632897	
	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		
<b>Date:</b>	03/31/2009	(755180)	CN600632897	
	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		
<b>Date:</b>	06/22/2009	(744017)	CN600632897	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) ELMR, No. 1, Pg. 2 PERMIT		
	Description:	Failure to maintain compliance with the permitted effluent limits for total suspended solids (TSS).		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) M&RR, No. 7, Pg. 5-6 PERMIT		
Description:	Failure to provide noncompliance notification of effluent violations as required by the permit.		
<b>Date:</b>	09/30/2009	(816924)	<b>CN600632897</b>
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		
<b>Date:</b>	10/31/2009	(816925)	<b>CN600632897</b>
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		
<b>Date:</b>	11/30/2009	(816926)	<b>CN600632897</b>
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		
<b>Date:</b>	12/31/2009	(816927)	<b>CN600632897</b>
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		
<b>Date:</b>	01/31/2010	(816922)	<b>CN600632897</b>
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		
<b>Date:</b>	02/28/2010	(835158)	<b>CN600632897</b>
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		
<b>Date:</b>	03/31/2010	(835159)	<b>CN600632897</b>
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

- F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>STONE HEDGE UTILITY CO., INC.;</b>	<b>§</b>	
<b>RN102334992</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

## AGREED ORDER

DOCKET NO. 2010-1185-MWD-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Stone Hedge Utility Co., Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Les Romo, appear before the Commission and together stipulate that:

1. Respondent owns and operates a wastewater treatment facility located approximately 6,100 feet northeast of the intersection of State Highway 105 and State Highway 336 in Montgomery County, Texas (the "Facility"). 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).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of thirteen thousand nine hundred ninety-four dollars (\$13,994.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid four hundred fourteen dollars (\$414.00) of the administrative penalty. The remaining amount of thirteen thousand five hundred eighty dollars (\$13,580.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred eighty-eight dollars (\$388.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall

become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on May 6, 2010, a TCEQ Houston Regional Office investigator documented that Respondent violated the following requirements:
  - a. Failed to comply with permitted effluent limits as shown in the Table below, in violation of TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014709001, Effluent Limitations and Monitoring Requirements No. 1:
  - b.

	March 2009	Sept 2009	Oct 2009	Nov 2009	Dec 2009	Jan 2010	Feb 2010
<b>CBOD5 Daily Average Concentration</b> 10 mg/L	c	11	c	c	c	13.25	14
<b>CBOD5 Single Grab</b> 35 mg/L	c	47	c	c	c	c	c
<b>Ammonia Nitrogen Daily Concentration Average</b> 3 mg/L	c	c	c	c	6.52	13.051	c
<b>Ammonia Nitrogen Single Grab</b> 15 mg/L	c	c	c	c	22	30.6	c

	March 2009	Sept 2009	Oct 2009	Nov 2009	Dec 2009	Jan 2010	Feb 2010
Ammonia Nitrogen Daily Average Loading .38 lbs/day	c	c	c	c	0.478	c	c
TSS Daily Average Concentration 15 mg/L	c	c	c	21.8	35.38	32.425	23.65
TSS Daily Average Loading 1.9 lbs/day	c	c	c	2.05	c	c	c
TSS Single Grab 60 mg/L	c	c	c	c	c	c	c
Flow Daily Average .015 MGD	.017	c	.016	c	c	c	.018
Dissolved Oxygen Monthly Minimum 6 mg/L	c	c	c	5.97	c	c	c

mg/L = milligrams per liter lbs/day = pounds per day TSS – total suspended solids  
CBOD5 = carbonaceous biochemical oxygen demand (5-day) MGD = million gallons per day  
c= compliant

- c. Failed to submit the noncompliance notifications for any effluent violations which deviate from the permitted effluent limitations by more than 40%, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014709001 Monitoring and Reporting Requirements No. 7.c. Specifically, the notifications were not submitted for the months of November 2009, December 2009, January 2010, February 2010, and March 2010;
- d. Failed to provide a certified operator to inspect the wastewater treatment plant (“WWTP”) daily, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014709001 Other Requirements No. 8. Specifically, a certified operator was inspecting the WWTP five days a week instead of seven days a week; and
- e. Failed to timely submit effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17), 319.4, and 319.7(d); and TPDES Permit No. WQ0014709001 Monitoring and Reporting Requirements No. 1. Specifically, the discharge monitoring reports (“DMRs”) for the monitoring periods ending April 2009 through March 2010 were submitted on May 5, 2010. Also, the DMR submitted for March 2010 failed to include correct data for CBOD5 maximum concentration.

2. Respondent received notice of the violations on or about July 6, 2010.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Stone Hedge Utility Co., Inc., Docket No. 2010-1185-MWD-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

2. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondent shall commence operating the Facility under the direct supervision of a properly certified operator seven days a week;
  - b. Within 15 days after the effective date of this Agreed Order, Respondent shall submit a revised DMR for the monitoring period ending March 31, 2010, to include the correct data for CBOD5, in accordance with TPDES Permit No. WQ0014709001;
  - c. Within 30 days after the effective date of this Agreed Order, Respondent shall update the Facility's operational guidance and conduct training to ensure that self reporting requirements are properly accomplished, including the timely submittal of signed and certified DMRs and written reports for effluent violations which deviate by more than 40% from the permitted limit are properly submitted to the TCEQ, in accordance with TPDES Permit No. WQ0014709001; and
  - d. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014709001, and Ordering Provision Nos. 2.a. through 2.c., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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 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 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. This Agreed Order, issued by the Commission, shall not be admissible against 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.

8. 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.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Stone Hedge Utility Co., Inc.  
Docket No. 2010-1185-MWD-E  
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Johnnie Purlee

For the Executive Director

10/28/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Stone Hedge Utility Co., Inc., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Michael M. Martin, Jr.

Signature

MICHAEL M. MARTIN, JR.

Name (Printed or typed)

Authorized representative of  
Stone Hedge Utility Co., Inc.

9-15-2011

Date

PRESIDENT

Title