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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1682-IWD-E **TCEQ ID:** RN101652667 **CASE NO.:** 40538
RESPONDENT NAME: OHMSTEDE, LTD.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Located at 12415 La Porte Road on the north side of State Highway 225, approximately 0.5 mile west of the intersection of State Highway 225 and State Highway 146, LaPorte, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 21, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. John Marcotte, Vice President SH&E, OHMSTEDE, LTD., 12415 Highway 225, La Porte, Texas 77571 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 24, 2010</p> <p>Date of NOV/NOE Relating to this Case: October 6, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permit effluent limits for organic carbon and copper [Texas Pollutant Discharge Elimination System Permit No. WQ0001318000, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121].</p>	<p>Total Assessed: \$6,030</p> <p>Total Deferred: \$1,206 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,824</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent added a chelating agent to the wastewater and removed the copper from the aqueous phase and returned into compliance with the permitted effluent limits by July 1, 2010.</p>

Additional ID No(s): WQ0001318000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Oct-2010	Screening	11-Oct-2010	EPA Due	
	PCW	13-Oct-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	OHMSTEDE, LTD.		
Reg. Ent. Ref. No.	RN101652667		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40538	No. of Violations	1
Docket No.	2010-1682-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	129.0% Enhancement	Subtotals 2, 3, & 7	\$3,870
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Notes: Enhancement for one Agreed Order with denial, two NOVs with same/similar violations, two NOVs with dissimilar violations, and for 19 months of self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$187
 Approx. Cost of Compliance \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,120
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-1.5%	Adjustment	-\$90
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in penalty to prevent double-enhancement of the penalty amount for same violations that were self-reported.

Final Penalty Amount	\$6,030
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,030
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,206
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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.

PAYABLE PENALTY	\$4,824
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Screening Date 11-Oct-2010

Docket No. 2010-1682-IWD-E

PCW

Respondent OHMSTEDE, LTD.

Policy Revision 2 (September 2002)

Case ID No. 40538

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101652667

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	21	105%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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) 129%

>> 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 Agreed Order with denial, two NOVs with same/similar violations, two NOVs with dissimilar violations, and for 19 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 129%

Screening Date 11-Oct-2010

Docket No. 2010-1682-IWD-E

PCW

Respondent OHMSTEDE, LTD.

Policy Revision 2 (September 2002)

Case ID No. 40538

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101652667

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001318000, 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. See attached Effluent Limit 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

A simplified model was used to evaluate total copper to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total organic carbon values 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

272 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 EDPRP/Settlement
	Extraordinary	
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by July 1, 2010 for this violation.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$187

Violation Final Penalty Total \$6,030

This violation Final Assessed Penalty (adjusted for limits) \$6,030

Economic Benefit Worksheet

Respondent OHMSTEDE, LTD.
Case ID No. 40538
Reg. Ent. Reference No. RN101652667
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)	\$5,000	1-Oct-2009	1-Jul-2010	0.75	\$187	n/a	\$187

Notes for DELAYED costs

Estimated cost to add a chelating agent to the wastewater and remove the copper from the aqueous phase. Date Required is the first day of non-compliance, Final Date is the compliance date.

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

\$187

OHMSTEDE, LTD.

RN101652667, Case No. 40538

TPDES Permit No. WQ0001318000, Docket No. 2010-1682-IWD-E

	TOC Daily Maximum Concentration 57 mg/L	Total Cu Daily Average Concentration 0.037 mg/L
October 2009	64.3	c
February 2010	c	0.048
June 2010	c	0.046

Milligram per liter – mg/L

Total Organic Carbon – TOC

Copper – Cu

Compliant - c

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601578784 OHMSTEDE, LTD.	Classification: AVERAGE	Rating: 2.01
Regulated Entity:	RN101652667 OHMSTEDE, LTD	Classification: AVERAGE	Site Rating: 1.77
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXR000041103
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	86671
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD008067969
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	31720
	PUBLIC WATER SYSTEM/SUPPLY WASTEWATER	REGISTRATION PERMIT	1011181 WQ000131800C
	WASTEWATER	EPA ID	TX0008184
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0527R
	AIR NEW SOURCE PERMITS	PERMIT	1217
	AIR NEW SOURCE PERMITS	REGISTRATION	23469
	AIR NEW SOURCE PERMITS	PERMIT	38057

Location: 12415 La Porte Road on the north side of State Highway 225, approximately 0.5 mile west of the intersection of State Highway 225 and State Highway 146 in LaPorte, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: October 19, 2010

Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 19, 2005 to October 19, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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? OWNOPR Ohmstede Ltd.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR PSC Industrial Outsourcing, LP
5. When did the change(s) in owner or operator occur? 09/03/2009
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.
 - Effective Date: 05/11/2007 ADMINORDER 2006-0863-IWD-E
 - Classification: Moderate
 - Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
 - Rqmt Prov: Effluent Limits PERMIT
 - Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
- 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	02/22/2006	(468813)
2	03/20/2006	(468814)

3	11/18/2005	(468816)
4	12/19/2005	(468817)
5	01/19/2006	(468818)
6	06/21/2006	(481005)
7	04/24/2006	(498465)
8	05/19/2006	(498466)
9	06/19/2006	(498467)
10	07/17/2006	(520467)
11	08/21/2006	(520468)
12	09/22/2006	(520469)
13	04/02/2007	(541907)
14	04/13/2007	(542310)
15	02/22/2007	(575844)
16	03/21/2007	(575845)
17	04/20/2007	(575846)
18	05/23/2007	(575847)
19	06/20/2007	(575848)
20	10/24/2006	(575849)
21	11/22/2006	(575850)
22	12/21/2006	(575851)
23	01/19/2007	(575852)
24	07/23/2007	(607633)
25	08/22/2007	(607634)
26	09/24/2007	(607635)
27	10/22/2007	(619717)
28	11/26/2007	(619718)
29	12/27/2007	(619719)
30	06/04/2008	(654890)
31	02/21/2008	(672221)
32	01/22/2008	(672222)
33	07/08/2008	(683704)
34	03/24/2008	(690140)
35	04/22/2008	(690141)
36	05/21/2008	(690142)
37	05/26/2009	(708270)
38	12/01/2008	(708665)
39	06/25/2008	(710927)
40	07/14/2008	(710928)
41	08/19/2008	(710929)
42	09/24/2008	(710930)
43	10/20/2008	(710931)
44	11/19/2008	(727624)
45	12/12/2008	(727625)
46	01/19/2009	(727626)
47	02/20/2009	(750441)
48	03/16/2009	(750442)

49	04/17/2009	(750443)
50	05/20/2009	(768485)
51	01/27/2010	(785019)
52	02/19/2010	(805124)
53	12/21/2009	(805125)
54	09/16/2009	(805126)
55	12/09/2009	(805127)
56	12/14/2009	(805128)
57	12/22/2009	(805129)
58	01/15/2010	(805130)
59	03/19/2010	(831049)
60	04/09/2010	(831050)
61	05/17/2010	(831051)
62	06/14/2010	(846322)
63	10/06/2010	(850151)
64	07/19/2010	(860911)
65	08/18/2010	(866890)

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

Date:	10/31/2005	(468816)	CN601578784		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	12/31/2005	(468818)	CN601578784		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	07/31/2006	(520468)	CN601578784		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	09/30/2006	(575849)	CN601578784		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	12/31/2006	(575852)	CN601578784		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	04/02/2007	(541907)			
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 335, SubChapter A 335.6(c)				
Description:	Failure to update Notice of Registration in a timely manner.				
Self Report?	NO			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121				

	30 TAC Chapter 335, SubChapter A 335.4		
Description:	General prohibitions/unauthorized discharge		
Date:	06/30/2007	(607633)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2007	(607635)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2007	(619717)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2007	(619718)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2007	(619719)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2007	(672222)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2008	(672221)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2008	(690141)	CN601578784
Self Report?	YES		Classification Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/16/2008	(654890)	CN601578784
Self Report?	NO		Classification Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to make available sanitary control easements for well #2 at the time of inspection or executive director approval for a substitute authorized in §290.41(c)(1)(F)(iv).		
Date	08/31/2008	(710930)	CN601578784
Self Report?	YES		Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 11/24/2008 (708665) CN601578784
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to make available sanitary control easements for well #2 at the time of inspection or executive director approval for a substitute authorized in §290.41(c)(1)(F)(iv).

Date 02/28/2009 (750442) CN601578784
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2009 (768485) CN601578784
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2009 (805128) CN601578784
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 01/26/2010 (785019) CN601578784
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limitations and Monitoring Req PERMIT
 Description: Failure to maintain compliance with the permitted effluent limitations for total organic carbon (TOC) and total suspended solids (TSS).

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to utilize an EPA-approved method for total suspended solids (TSS), total organic carbon (TOC), and biochemical oxygen demand (BOD) analyses.

Date 02/28/2010 (831049) CN601578784
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2010 (860911) CN601578784
 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



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OHMSTEDE, LTD.
RN101652667

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-1682-IWD-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 OHMSTEDE, LTD. ("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 at 12415 La Porte Road on the north side of State Highway 225, approximately 0.5 mile west of the intersection of State Highway 225 and State Highway 146 in LaPorte, Harris County, Texas (the "Facility").
2. The Respondent has discharged industrial 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 October 11, 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 Six Thousand Thirty Dollars (\$6,030) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Eight Hundred Twenty-Four

Dollars (\$4,824) of the administrative penalty and One Thousand Two Hundred Six Dollars (\$1,206) 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 added a chelating agent to the wastewater and removed the copper from the aqueous phase and returned into compliance with the permitted effluent limits by July 1, 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 failed to comply with permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001318000, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121, as documented during a record review conducted on August 24, 2010 as depicted in the table below:

EFFLUENT PARAMETER		
Permit Limit		
	TOC Daily Maximum Concentration	Total Cu Daily Average Concentration
Month/Year	57 mg/L	0.037 mg/L
October 2009	64.3	c
February 2010	c	0.048
June 2010	c	0.046

TOC = Total Organic Carbon Cu = Copper c = compliant mg/L = milligrams per liter

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: OHMSTEDE, LTD., Docket No. 2010-1682-IWD-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



For the Executive Director

Date 3/11/2011

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date JAN 5, 2011

JOHN MARCOTTE

Name (Printed or typed)
Authorized Representative of
OHMSTEDE, LTD.

V.P. SHARE
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.