# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2010-1941-MWD-E **TCEQ ID:** RN101917458 **CASE NO.:** 40777

**RESPONDENT NAME:** Hill Country Harbor, L.P.

| **ORDER TYPE:** | | |
|---|---|---|
| __1660 AGREED ORDER | _X_FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| __FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| **CASE TYPE:** | | |
| __AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | __PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| _X_WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| __MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** Hill Country Harbor WWTP, located approximately 3,500 feet west of the intersection of Farm-to-Market Road 2951 and Park Road 36, Palo Pinto County

**TYPE OF OPERATION:** Wastewater treatment facility

**SMALL BUSINESS:** _X_ **Yes** ___ **No**

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on March 14, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None
**TCEQ Enforcement Coordinator:** Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0735; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
**Respondent:** Mr. John D. Stelzer, President, Hill Country Harbor, L.P., 3415 Scenic Point Road, Graford, Texas 76449
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br>__ Complaint<br>__ Routine<br>__ Enforcement Follow-up<br>_X_ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** November 4, 2010<br><br>**Date of NOV/NOE Relating to this Case:** November 18, 2010 (NOE)<br><br>**Background Facts:** This was a records review.<br><br>**WATER**<br><br>Failed to comply with permitted effluent limitations for ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014173001, Interim Effluent Limitations and Monitoring Requirements No. 1]. | **Total Assessed:** $2,350<br><br>**Total Deferred:** $0<br>__Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid to General Revenue:** $2,350<br><br>**Compliance History Classifications:**<br>Person/CN - Average<br>Site/RN - Average<br><br>**Major Source:** __ Yes _X_ No<br><br>**Applicable Penalty Policy:** September 2002<br><br>**Findings Orders Justification:**<br><br>The Respondent has three repeated enforcement actions over the prior five year period for the same vioalation. | **Ordering Provisions:**<br><br>It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014173001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. |

Additional ID No(s).: WQ0014173001

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* — *PCW Revision October 30, 2008*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 22-Nov-2010 | | | | |
| PCW | 3-Dec-2010 | Screening | 30-Nov-2010 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Hill Country Harbor, L.P. | | |
| Reg. Ent. Ref. No. | RN101917458 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 40777 | No. of Violations | 1 |
| Docket No. | 2010-1941-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Carlie Konkol |
| | | 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* **$1,000**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** — **135.0%** Enhancement — *Subtotals 2, 3, & 7* **$1,350**

Notes: Enhancement for 18 self-reported effluent violations, five NOVs with same/similar violations and one agreed order with a denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** — *Subtotal 5* **$0**

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

Total EB Amounts: $542
Approx. Cost of Compliance: $10,000

**Capped at the Total EB $ Amount*

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* **$2,350**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** — **0.0%** — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **$2,350**

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* **$2,350**

**DEFERRAL** — **0.0%** Reduction — *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **$2,350**

**Screening Date** 30-Nov-2010 **Docket No.** 2010-1941-MWD-E **PCW**

**Respondent** Hill Country Harbor, L.P.

*Policy Revision 2 (September 2002)*

**Case ID No.** 40777

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101917458

**Media [Statute]** Water Quality

**Enf. Coordinator** Carlie Konkol

# 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 (*number of NOVs meeting criteria*) | 23 | 115% |
| | Other written NOVs | 0 | 0% |
| 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)*** 135%

## >> 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 18 self-reported effluent violations, five NOVs with same/similar violations and one agreed order with a denial of liability.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 135%

**Screening Date** 30-Nov-2010 **Docket No.** 2010-1941-MWD-E **PCW**

**Respondent** Hill Country Harbor, L.P.

*Policy Revision 2 (September 2002)*

**Case ID No.** 40777

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101917458

**Media [Statute]** Water Quality

**Enf. Coordinator** Carlie Konkol

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014173001, Interim Effluent Limitations and Monitoring Requirements No. 1

**Violation Description** Failed to comply with permitted effluent limitations, as documented during a record review conducted on November 4, 2010 and shown in the attached Effluent 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 ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

**Adjustment** $9,000

$1,000

## Violation Events

Number of Violation Events 1 — 92 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $1,000

One quarterly event is recommended.

## 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

**Estimated EB Amount** $542

## Statutory Limit Test

**Violation Final Penalty Total** $2,350

**This violation Final Assessed Penalty (adjusted for limits)** $2,350

# Economic Benefit Worksheet

**Respondent** Hill Country Harbor, L.P.
**Case ID No.** 40777
**Reg. Ent. Reference No.** RN101917458
**Media** Water Quality
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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-Jul-2010 | 31-Aug-2011 | 1.08 | $542 | n/a | $542 |

**Notes for DELAYED costs**: Estimated costs to evaluate the wastewater treatment system to identify and repair problems related to the treatment system. The Date Required is the first date of noncompliance. The Final Date is the expected compliance date with permitted effluent limitations.

| **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** $542

Hill Country Harbor, L.P.
TPDES Permit No. WQ0014173001
Docket 2010-1941-MWD-E

| Effluent Table | | | |
|---|---|---|---|
| Permitted Effluent Limits | Monitoring Periods | | |
| | July 2010 | August 2010 | September 2010 |
| Ammonia Nitrogen Daily Average Concentration 3.0 mg/L | 5.51 | 4.57 | 5.61 |
| Ammonia Nitrogen Single Grab Max. Concentration 15 mg/L | 19.2 | 19.0 | 29.0 |

Mg/L – Milligrams per Liter
Max. - Maximum

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN603473687 | Hill Country Harbor, L.P. | Classification: AVERAGE | Rating: 1.57 |
| Regulated Entity: | RN101917458 | HILL COUNTRY HARBOR WWTP | Classification: AVERAGE | Site Rating: 1.57 |

| | | | |
|---|---|---|---|
| ID Number(s): | WASTEWATER | PERMIT | WQ0014173001 |
| | WASTEWATER | EPA ID | TX0121797 |

Location: Located approximately 3,500 feet west of the intersection of Farm-to-Market Road 2951 and Park Road 36 in Palo Pinto County, Texas 76449

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: November 23, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 23, 2005 to November 23, 2010

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

Name: Carlie Konkol Phone: (512) 239-0735

### 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 of the site during the compliance period? | | Yes | |
| 3. If Yes, who is the current owner? | | OWN | Hill Country Harbor, L.P. |
| 4. If Yes, who was/were the prior owner(s)? | | OWN | Scenic Point Northview, Inc. |
| 5. When did the change(s) in ownership occur? | 3/1/2007 | OWN | Scenic Point Northview, Inc. |
| | 10/2/2009 | OWN | Hill Country Harbor, L.P. |

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: 9/21/2008 ADMINORDER 2009-0527-MWD-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 | 03/08/2006 | (493065) |
| 2 | 02/10/2006 | (493066) |
| 3 | 03/08/2006 | (493067) |
| 4 | 03/08/2006 | (493069) |
| 5 | 03/08/2006 | (493071) |
| 6 | 03/08/2006 | (493073) |
| 7 | 03/08/2006 | (493074) |
| 8 | 03/08/2006 | (493076) |
| 9 | 03/08/2006 | (493078) |
| 10 | 03/08/2006 | (493080) |
| 11 | 03/08/2006 | (493081) |
| 12 | 02/06/2006 | (493083) |
| 13 | 03/08/2006 | (493084) |
| 14 | 02/06/2006 | (493085) |
| 15 | 03/08/2006 | (493086) |
| 16 | 08/23/2007 | (568429) |
| 17 | 11/15/2007 | (600793) |

| | | |
|---|---|---|
| 18 | 11/01/2007 | (632173) |
| 19 | 01/24/2007 | (632174) |
| 20 | 11/01/2007 | (632175) |
| 21 | 01/24/2007 | (632176) |
| 22 | 11/01/2007 | (632177) |
| 23 | 01/24/2007 | (632178) |
| 24 | 01/24/2007 | (632179) |
| 25 | 11/01/2007 | (632180) |
| 26 | 07/19/2007 | (632181) |
| 27 | 11/01/2007 | (632182) |
| 28 | 11/01/2007 | (632183) |
| 29 | 11/01/2007 | (632184) |
| 30 | 11/01/2007 | (632185) |
| 31 | 11/01/2007 | (632186) |
| 32 | 11/01/2007 | (632187) |
| 33 | 12/03/2007 | (632188) |
| 34 | 11/01/2007 | (632189) |
| 35 | 12/27/2007 | (632190) |
| 36 | 11/01/2007 | (632191) |
| 37 | 02/22/2008 | (677489) |
| 38 | 02/20/2008 | (677490) |
| 39 | 02/20/2008 | (677491) |
| 40 | 01/07/2008 | (677492) |
| 41 | 01/14/2008 | (677493) |
| 42 | 03/12/2008 | (696247) |
| 43 | 04/23/2008 | (696248) |
| 44 | 05/19/2008 | (696249) |
| 45 | 07/07/2008 | (717905) |
| 46 | 07/21/2008 | (717906) |
| 47 | 09/15/2008 | (717907) |
| 48 | 03/20/2009 | (725977) |
| 49 | 09/30/2008 | (733203) |
| 50 | 10/20/2008 | (733204) |
| 51 | 11/21/2008 | (733205) |
| 52 | 12/29/2008 | (733206) |
| 53 | 01/16/2009 | (733207) |
| 54 | 06/10/2009 | (748784) |
| 55 | 02/17/2009 | (756355) |
| 56 | 03/10/2009 | (756356) |
| 57 | 04/20/2009 | (756357) |
| 58 | 08/26/2009 | (767351) |
| 59 | 05/14/2009 | (773311) |
| 60 | 06/14/2009 | (773312) |
| 61 | 02/17/2010 | (820134) |
| 62 | 12/10/2009 | (820135) |
| 63 | 01/20/2010 | (820136) |
| 64 | 03/18/2010 | (836302) |
| 65 | 04/18/2010 | (836303) |
| 66 | 05/24/2010 | (836304) |
| 67 | 06/20/2010 | (847935) |
| 68 | 07/20/2010 | (862356) |
| 69 | 10/28/2010 | (863450) |
| 70 | 10/28/2010 | (864641) |
| 71 | 08/31/2010 | (868981) |
| 72 | 11/19/2010 | (873115) |
| 73 | 09/19/2010 | (875828) |

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

Date: 04/30/2006 (632178) CN603473687
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: 06/30/2006 (632180) CN603473687
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: 07/31/2007 (632183) CN603473687
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: 08/24/2007 (568429) CN603473687
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
WQ14173-001 PERMIT
Description: Failure to submit monthly discharge monitoring reports (DMRs) to the TCEQ Compliance Monitoring Team.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ14173-001 PERMIT
Description: Failure to comply with the permit limit for total residual chlorine (TRC) maximum of 4.0

Date: 08/31/2007 (632184) CN603473687
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 (632186) CN603473687
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 (677489) CN603473687
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (696247) CN603473687
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 (696248) CN603473687
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (717905) CN603473687
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: 10/31/2008 (733205) CN603473687
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: 11/30/2008 (733206) CN603473687

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: 03/26/2009 (737825) CN603473687

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
WQ14173-001 PERMIT

Description: Failure by Scenic Point Northview to maintain adequate safeguards to prevent discharge of untreated or inadequately treated wastes during electrical power failure.

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)
WQ14173-001 PERMIT

Description: Failure to prevent the unauthorized discharge of wastewater in the collection system.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
WQ14173-001 PERMIT

Description: Failure to report sanitary sewer overflows to the TCEQ.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ14173-001 PERMIT

Description: Failure to comply with the total chlorine residual effluent maximum limit of 4.0 mg/L.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)

Description: Failure to measure flow appropriately.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ14173-001 PERMIT

Description: Failure to comply with the effluent permit limits for NH3N, TSS, and TCR.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to maintain protection and alarms at lift stations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter D 305.65

Description: Failure to submit renewal permit application in a timely manner.

Date: 04/30/2009 (773311) CN603473687

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2009 (773312) CN603473687
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: 07/24/2009 (763116) CN603473687
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ14173-001 PERMIT
Description: Failure to comply with minimum effluent permit limits for total residual chlorine.

Date: 11/30/2009 (820135) CN603473687
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2009 (820136) CN603473687
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: 07/31/2010 (868981) CN603473687
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: 08/31/2010 (875828) CN603473687
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: 09/30/2010 CN603473687
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: 10/21/2010 (849705) CN603473687
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with effluent parameter grab limits during the investigation.

Date: 10/22/2010 (863450) CN603473687
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to maintain lift station(s) according to TCEQ design requirements.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.6
WQ0014173-001 PERMIT
Description: Failure to utilize an approved method of disinfection.

Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)

2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)
WQ0014173-001 PERMIT

Description: Failure to prevent unauthorized discharges from the wastewater plant or collection system.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014173-001 PERMIT
Description: Failure to comply with effluent grab sample limits during the investigation.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014173-001 PERMIT
Description: Failure to comply with the self-monitoring permit limitations.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.4
WQ0014173-001 PERMIT
Description: Failure to analyze for the parameters specified in the permit.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014173-001 PERMIT
Description: Failure to comply with the noncompliance notification reporting requirements, specifically when an effluent monitoring parameter exceeds the permitted value by greater than 40% or has the potential of endangering human health or safety, or the environment.

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** | **§** | **BEFORE THE** |
| **ENFORCEMENT ACTION** | **§** | |
| **CONCERNING** | **§** | **TEXAS COMMISSION ON** |
| **HILL COUNTRY HARBOR, L.P.** | **§** | |
| **RN101917458** | **§** | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2010-1941-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Hill Country Harbor, L.P. ("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 presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

## I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 3,500 feet west of the intersection of Farm-to-Market Road 2951 and Park Road 36 in Palo Pinto County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. During a record review on November 4, 2010, TCEQ staff documented the following effluent exceedances from the monthly self-reported discharge monitoring reports:

| Effluent Table | | | |
|---|---|---|---|
| Permitted Effluent Limits | Monitoring Periods | | |
| | July 2010 | August 2010 | September 2010 |
| Ammonia Nitrogen Daily Average Concentration 3.0 mg/L | 5.51 | 4.57 | 5.61 |
| Ammonia Nitrogen Single Grab Max. Concentration 15 mg/L | 19.2 | 19.0 | 29.0 |

mg/L – Milligrams per Liter
Max. - Maximum

4. The Respondent received notice of the violations on November 23, 2010.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014173001, Interim Effluent Limitations and Monitoring Requirements No. 1.

3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Two Thousand Three Hundred Fifty Dollars ($2,350) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Two Thousand Three Hundred Fifty Dollar ($2,350) administrative penalty.

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Three Hundred Fifty Dollars ($2,350) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Hill Country Harbor, L.P., Docket No. 2010-1941-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014173001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.

8. 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.

9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ _____
For the Executive Director Date 2/17/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of Hill Country Harbor, L.P. I am authorized to agree to the attached Agreed Order on behalf of Hill Country Harbor, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Hill Country Harbor, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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 2/9/11

JOHN D. SELZER _____ PRESIDENT OF HCH GP, LLC
Name (Printed or typed) Title GENERAL PARTNER
Authorized Representative of
Hill Country Harbor, L.P.

**Instructions**: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order