

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1529-MWD-E **TCEQ ID:** RN100219708 **CASE NO.:** 40404
RESPONDENT NAME: United Structures of America, Inc.

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: United Structures of America, 1912 Buschong, Houston, 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 one additional pending enforcement action regarding this facility location, Docket No. 2010-1598-AIR-E.</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 February 21, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Floyd Drake, President, United Structures of America, Inc., P. O. Box 60069, Houston, Texas 77205 Mr. Dain Drake, Vice President, United Structures of America, Inc., P. O. Box 60069, Houston, Texas 77205 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 10, 2010 and October 6, 2010</p> <p>Date of NOV/NOE Relating to this Case: August 25, 2010 (NOE)</p> <p>Background Facts: These were records reviews.</p> <p>WATER</p> <p>1) Failed to maintain, provide or make records available for review. Specifically, the following records were not available for review: laboratory analysis results for the sludge testing, annual sludge reports for fiscal years 2003-2008, and the sludge manifests for fiscal year 2008 [30 TEX. ADMIN. CODE § 305.125(1) and (11)(B) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012765001, Monitoring and Reporting Requirements No. 3.b].</p> <p>2) Failed to timely submit a complete and accurate annual sludge report for the monitoring period ending July 31, 2009. Specifically, three of the nine pages of the sludge discharge monitoring report ("DMR") were not completed correctly [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0012765001, Sludge Provisions].</p> <p>3) Failed to timely submit the DMRs for the monitoring periods ending April 30, 2010 through July 31, 2010, by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0012765001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$3,158</p> <p>Total Deferred: \$631 <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: \$2,527</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 has implemented the following corrective measures at the Facility:</p> <p>a. By June 10, 2010, drained and cleaned the chlorine contact chamber, increased the air flow, and adjusted the return sludge rate;</p> <p>b. By June 30, 2010, returned to compliance with all permitted effluent limits of TPDES Permit No. WQ0012765001; and</p> <p>c. On September 16, 2010, the Respondent submitted the DMRs for the monitoring periods ending April 30, 2010 through July 31, 2010.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Update operational guidance and conduct employee training to ensure that records are maintained and available for review upon request, that monthly DMRs are submitted by the 20th day of the following month, and that the annual sludge report is submitted by September 1 each year;</p> <p>ii. Submit a complete and accurate annual sludge report for the monitoring period ending July 31, 2009; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. and a.ii.</p>

<p>4) Failed to comply with the permitted effluent limit for total suspended solids ("TSS"). Specifically, the TSS daily average concentration exceeded the permit limit of 15 milligrams per liter ("mg/L") for the monitoring period ending May 31, 2010 (19.57 mg/L) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012765001, Effluent Limitations and Monitoring Requirements No. 1].</p>		
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Additional ID No(s): WQ0012765001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Oct-2010	Screening	6-Oct-2010	EPA Due	
	PCW	1-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	United Structures of America, Inc.		
Reg. Ent. Ref. No.	RN100219708		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40404	No. of Violations	4
Docket No.	2010-1529-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,400**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **42.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,008**

Notes: Enhancement recommended for two NOV's with same/similar violations, one NOV with dissimilar violations, two months of self reported effluent violations, and one order with denial.

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** **\$250**

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

Total EB Amounts \$20
Approx. Cost of Compliance \$750
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,158**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$3,158**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,158**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$631**

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 **\$2,527**

Screening Date 6-Oct-2010

Docket No. 2010-1529-MWD-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40404

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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%

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) 42%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement recommended for two NOVs with same/similar violations, one NOV with dissimilar violations, two months of self reported effluent violations, and one order with denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 6-Oct-2010

Docket No. 2010-1529-MWD-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40404

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (11)(B) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012765001, Monitoring and Reporting Requirements No. 3.b

Violation Description Failed to maintain, provide or make records available for review, as documented during a record review conducted on August 10, 2010. Specifically, the following records were not available for review: laboratory analysis results for the sludge testing, annual sludge reports for fiscal years 2003-2008, and the sludge manifests for fiscal year 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		5%

Matrix Notes 30% to 70% of permit requirement was met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 31

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single 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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$710

This violation Final Assessed Penalty (adjusted for limits) \$710

Economic Benefit Worksheet

Respondent United Structures of America, Inc.
Case ID No. 40404
Reg. Ent. Reference No. RN100219708
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	10-Aug-2010	15-Apr-2011	0.68	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update operational guidance and conduct employee training to ensure that records are maintained and available for review upon request, that monthly DMRs are submitted by the 20th day of the following month, and that the annual sludge report is submitted by September 1 each year. Date required is the investigation date. Final date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250	TOTAL	\$8
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Screening Date 6-Oct-2010

Docket No. 2010-1529-MWD-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40404

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0012765001, Sludge Provisions

Violation Description

Failed to timely submit a complete and accurate annual sludge report for the monitoring period ending July 31, 2009, as documented during a record review conducted on October 6, 2010. Specifically, three of the nine pages of the sludge discharge monitoring report ("DMR") were not completed correctly.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes

30% to 70% of the permit requirement was met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

374 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$710

This violation Final Assessed Penalty (adjusted for limits) \$710

Economic Benefit Worksheet

Respondent United Structures of America, Inc.
Case ID No. 40404
Reg. Ent. Reference No. RN100219708
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	\$100	1-Sep-2009	15-Apr-2011	1.62	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide the missing information and resubmit the annual sludge report for the monitoring period ending July 31, 2009. Date required is the date the report was due. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$8

Screening Date 6-Oct-2010

Docket No. 2010-1529-MWD-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40404

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0012765001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit the DMRs for the monitoring periods ending April 30, 2010 through July 31, 2010, by the 20th day of the following month, as documented during a record review conducted on October 6, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

More than 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4

122 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$400

Four single events are recommended, one 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 \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$568

This violation Final Assessed Penalty (adjusted for limits) \$568

Economic Benefit Worksheet

Respondent United Structures of America, Inc.
Case ID No. 40404
Reg. Ent. Reference No. RN100219708
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	\$100	20-May-2010	16-Sep-2010	0.33	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the DMRs for the monitoring periods ending April 30, 2010 through July 31, 2010. Date required is the date the first DMR was due. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$2

Screening Date 6-Oct-2010

Docket No. 2010-1529-MWD-E

PCW

Respondent United Structures of America, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40404

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100219708

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 4

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012765001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limit for total suspended solids ("TSS"), as documented during a record review conducted on October 6, 2010. Specifically, the TSS daily average concentration exceeded the permit limit of 15 milligrams per liter ("mg/L") for the monitoring period ending May 31, 2010 (19.57 mg/L).

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 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 1

31 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.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent returned to compliance by June 30, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,170

This violation Final Assessed Penalty (adjusted for limits) \$1,170

Economic Benefit Worksheet

Respondent United Structures of America, Inc.
Case ID No. 40404
Reg. Ent. Reference No. RN100219708
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	\$300	31-May-2010	30-Jun-2010	0.08	\$0	\$2	\$2
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to drain and clean the chlorine contact chamber, increase the air flow, and adjust the return sludge rate to return to compliance with all permitted effluent limits. Date required is the initial date of noncompliance. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$2

Compliance History Report

Customer/Respondent/Owner-Operator: CN600130421 UNITED STRUCTURES OF AMERICA, INC. Classification: AVERAGE Rating: 1.12

Regulated Entity: RN100219708 UNITED STRUCTURES OF AMERICA Classification: AVERAGE Site Rating: 1.12

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1387C
AIR OPERATING PERMITS	PERMIT	1107
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	39226
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXR000063701
WASTEWATER	PERMIT	WQ0012765001
WASTEWATER	EPA ID	TX0093556
AIR NEW SOURCE PERMITS	PERMIT	18557
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1387C
AIR NEW SOURCE PERMITS	AFS NUM	4820100545
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012871
STORMWATER	PERMIT	TXR05T699
WASTEWATER LICENSING	LICENSE	WQ0012765001
WATER LICENSING	LICENSE	1012871
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG1387C

Location: 1912 BUSCHONG STREET, HOUSTON, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 08, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 08, 2005 to September 08, 2010

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

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

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- | | |
|---|----------------------------|
| Effective Date: 04/03/2008 | ADMINORDER 2007-1575-AIR-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 122, SubChapter B 122.143(4) | |
| 30 TAC Chapter 122, SubChapter B 122.146(2) | |
| 5C THC Chapter 382, SubChapter A 382.085(b) | |
| Rqmt Prov: General Terms and Conditions OP | |
| Description: Failed to submit an annual compliance certification within 30 days after the end of the January 1, 2006 to December 31, 2006 certification period. | |
- 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 | 11/17/2005 | (477988) |
| | 2 | 01/06/2006 | (477989) |
| | 3 | 01/06/2006 | (477990) |
| 4 | 01/06/2006 | (477991) | |
| 5 | 05/23/2006 | (464790) | |
| 6 | 05/30/2006 | (504387) | |
| 7 | 05/30/2006 | (504388) | |
| 8 | 05/30/2006 | (504389) | |
| 9 | 05/30/2006 | (504390) | |
| 10 | 06/14/2006 | (504391) | |
| 11 | 07/05/2006 | (480020) | |
| 12 | 07/28/2006 | (489035) | |
| 13 | 08/11/2006 | (526712) | |

14	11/16/2006	(626345)
15	11/16/2006	(626347)
16	11/16/2006	(626349)
17	11/16/2006	(626351)
18	01/10/2007	(626353)
19	01/10/2007	(626355)
20	01/10/2007	(626357)
21	02/20/2007	(536069)
22	02/27/2007	(539629)
23	04/11/2007	(626340)
24	04/11/2007	(626341)
25	08/30/2007	(573892)
26	10/10/2007	(626342)
27	10/10/2007	(626343)
28	11/19/2007	(626344)
29	11/19/2007	(626346)
30	11/21/2007	(626348)
31	11/21/2007	(626350)
32	01/14/2008	(626352)
33	01/14/2008	(626354)
34	01/14/2008	(626356)
35	01/14/2008	(626358)
36	02/19/2008	(617097)
37	02/29/2008	(675893)
38	03/05/2008	(610457)
39	04/10/2008	(694276)
40	05/12/2008	(694277)
41	03/25/2009	(754675)
42	03/25/2009	(754676)
43	03/25/2009	(754677)
44	03/25/2009	(754678)
45	03/25/2009	(754679)
46	03/25/2009	(754680)
47	03/25/2009	(754681)
48	03/25/2009	(754682)
49	03/25/2009	(754683)
50	03/25/2009	(754684)
51	03/25/2009	(754685)
52	05/18/2009	(738930)
53	05/21/2009	(771905)
54	05/21/2009	(771906)
55	10/28/2009	(779465)
56	12/08/2009	(815730)
57	12/08/2009	(815731)
58	12/08/2009	(815732)
59	12/08/2009	(815735)
60	12/08/2009	(815736)
61	12/11/2009	(815733)
62	12/11/2009	(815734)
63	02/01/2010	(815737)
64	03/29/2010	(815729)
65	04/05/2010	(834721)
66	05/12/2010	(834722)
67	08/25/2010	(846003)
68	08/31/2010	(794105)

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

Date:	07/05/2006	(480020)	CN600130421	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TPDES MSGP Part III, Section A(5)(a) PERMIT			
Description:	Failure to practice good housekeeping measures.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TPDES MSGP Part III, Section A(5)(b)(2) PERMIT			
Description:	Failure to provide a secondary containment structure around the above ground diesel storage tank.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4) TPDES MSGP Part III, Section A(5)(f)(1) PERMIT			
Description:	Failure to conduct employee training during the term of the permit.			
Self Report?	NO		Classification:	Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 TPDES MSGP Part III, Section A(7)(c) PERMIT
 Description: Failure to conduct the annual comprehensive site compliance evaluations.
 Date: 12/31/2006 (626357) CN600130421
 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: 02/15/2007 (536069)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)
 Description: Failure to provide vacuum breakers and a copy of an annual test report form for the back flow prevention device.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to properly report flow and parameter loading on the February 2006 Discharge Monitoring Report (DMR).
 Date: 05/18/2009 (738930) CN600130421
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 Description: Failure to provide and maintain the sludge management records.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
 Description: Failure to accurately report the analytical results on the discharge monitoring report (DMR).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.6
 30 TAC Chapter 319, SubChapter A 319.9(c)
 Description: Failure to provide records of the total chlorine residual Quality Assurance/Quality Control (QA/QC) procedures.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(d)
 Description: Failure to submit discharge monitoring reports (DMR).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to maintain the backflow prevention device.
 Date: 05/31/2010 CN600130421
 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
UNITED STRUCTURES OF
AMERICA, INC.
RN100219708**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1529-MWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding United Structures of America, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns a wastewater treatment facility at 1912 Buschong in Houston, Harris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 30, 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 Three Thousand One Hundred Fifty-Eight Dollars (\$3,158) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Five Hundred

Twenty-Seven Dollars (\$2,527) of the administrative penalty and Six Hundred Thirty-One Dollars (\$631) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By June 10, 2010, drained and cleaned the chlorine contact chamber, increased the air flow, and adjusted the return sludge rate;
 - b. By June 30, 2010, returned to compliance with all permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012765001; and
 - c. On September 16, 2010, the Respondent submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending April 30, 2010 through July 31, 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 of the Facility, the Respondent is alleged to have:

1. Failed to maintain, provide or make records available for review, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (11)(B) and TPDES Permit No. WQ0012765001, Monitoring and Reporting Requirements No. 3.b, as documented during a record review conducted on August 10, 2010. Specifically, the following records were not available for

review: laboratory analysis results for the sludge testing, annual sludge reports for fiscal years 2003-2008, and the sludge manifests for fiscal year 2008.

2. Failed to timely submit a complete and accurate annual sludge report for the monitoring period ending July 31, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0012765001, Sludge Provisions, as documented during a record review conducted on October 6, 2010. Specifically, three of the nine pages of the sludge discharge monitoring report ("DMR") were not completed correctly.
3. Failed to timely submit the DMRs for the monitoring periods ending April 30, 2010 through July 31, 2010, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and TPDES Permit No. WQ0012765001, Monitoring and Reporting Requirements No. 1, as documented during a record review on October 6, 2010.
4. Failed to comply with the permitted effluent limit for total suspended solids ("TSS"), in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012765001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 6, 2010. Specifically, the TSS daily average concentration exceeded the permit limit of 15 milligrams per liter ("mg/L") for the monitoring period ending May 31, 2010 (19.57 mg/L).

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: United Structures of America, Inc., Docket No. 2010-1529-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
 - i. Update operational guidance and conduct employee training to ensure that records are maintained and available for review upon request, that monthly DMRs are submitted by the 20th day of the following month, and that the annual sludge report is submitted by September 1 each year;
 - ii. Submit a complete and accurate annual sludge report for the monitoring period ending July 31, 2009, in accordance with 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0012765001, Sludge Provisions; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God,

war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 1/24/2011

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

November 30, 2010

Date

Dain Drake
Name (Printed or typed)
Authorized Representative of
United Structures of America, Inc.

Vice President
Title

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