

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1788-MWD-E **TCEQ ID:** RN102286812 **CASE NO.:** 40642  
**RESPONDENT NAME:** Commodore Cove Improvement District

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>166o AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Commodore Cove ID, located at 711 Anchor Drive, approximately two miles southeast of the intersection of County Road 792 and Farm-to-Market Road 523, Brazoria County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 21, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. M. W. Luycx, President, Commodore Cove Improvement District, 103 Anchor Drive, Freeport, Texas 77541  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 7, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 15, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with permitted effluent limitations for dissolved oxygen, pH, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010798001 Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].</p> <p>2) Failed to submit results at the intervals specified in the permit. Specifically, the Respondent failed to include the chlorine residual monthly minimum and maximum concentration results on the discharge monitoring report ("DMR") for the monitoring period ending July 31, 2009 [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010798001 Monitoring and Reporting Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$4,417</p> <p><b>Total Deferred:</b> \$883  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,534</p> <p><b>Compliance History Classification:</b>                      Person/CN – Average                      Site/RN – Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <p>a. By March 13, 2010, repaired the wasting valve at the Facility;</p> <p>b. By April 18, 2010, replaced blades on the skimmer's arms;</p> <p>c. By June 19, 2010, replaced the shear pin in the clarifier's gear drive;</p> <p>d. By July 31, 2010, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0010798001; and</p> <p>e. On November 5, 2010, submitted a revised DMR for the monitoring period ending July 31, 2009, which included the chlorine residual monthly minimum and maximum concentration results.</p>

Additional ID No(s): WQ0010798001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	18-Oct-2010	<b>Screening</b>	28-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	28-Oct-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Commodore Cove Improvement District
<b>Reg. Ent. Ref. No.</b>	RN102286812
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40642	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1788-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Marty Hott
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,100**

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

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

**Compliance History** **75.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,325**

Notes: Enhancement for 14 months of self-reported effluent violations and one NOV with same/similar violations.

**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** **\$760**

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

Total EB Amounts \$375  
Approx. Cost of Compliance \$10,025  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$4,665**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **-5.3%** **Adjustment** **-\$248**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent double enhancement for self-reported violations and to prevent self-reported violations from overly impacting the penalty.

**Final Penalty Amount** **\$4,417**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$4,417**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$883**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$3,534**

**Screening Date** 28-Oct-2010

**Docket No.** 2010-1788-MWD-E

**PCW**

**Respondent** Commodore Cove Improvement District

Policy Revision 2 (September 2002)

**Case ID No.** 40642

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102286812

**Media [Statute]** Water Quality

**Enf. Coordinator** Marty Hott

### 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> )	15	75%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

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)** 75%

>> **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 14 months of self-reported effluent violations and one NOV with same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 75%

Screening Date 28-Oct-2010

Docket No. 2010-1788-MWD-E

PCW

Respondent Commodore Cove Improvement District

Policy Revision 2 (September 2002)

Case ID No. 40642

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286812

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010798001 Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on September 7, 2010 and shown in the attached 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

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 as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

181 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 Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent achieved compliance by July 31, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$374

Violation Final Penalty Total \$4,261

This violation Final Assessed Penalty (adjusted for limits) \$4,261

## Economic Benefit Worksheet

**Respondent** Commodore Cove Improvement District  
**Case ID No.** 40642  
**Reg. Ent. Reference No.** RN102286812  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Oct-2009	31-Jul-2010	0.75	\$374	n/a	\$374

Notes for DELAYED costs

Estimated cost to evaluate the Facility to determine the causes of the effluent violations and complete corrective actions, including repairing the wasting valve, replacing blades on the skimmer's arms, and replacing the shear pin in the clarifier's gear drive. Date required is the first month 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

\$10,000

**TOTAL**

\$374

Screening Date 28-Oct-2010

Docket No. 2010-1788-MWD-E

PCW

Respondent Commodore Cove Improvement District

Policy Revision 2 (September 2002)

Case ID No. 40642

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102286812

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010798001 Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit results at the intervals specified in the permit, as documented during a record review conducted on September 7, 2010. Specifically, the Respondent failed to include the chlorine residual monthly minimum and maximum concentration results on the discharge monitoring report ("DMR") for the monitoring period ending July 31, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1%

Matrix Notes More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 442

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent achieved compliance by November 5, 2010.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2 Violation Final Penalty Total \$156

This violation Final Assessed Penalty (adjusted for limits) \$156

## Economic Benefit Worksheet

**Respondent** Commodore Cove Improvement District  
**Case ID No.** 40642  
**Reg. Ent. Reference No.** RN102286812  
**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	\$25	20-Aug-2009	5-Nov-2010	1.21	\$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 a revised DMR to the TCEQ. Date required is the date the 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

\$25

**TOTAL**

\$2

Commodore Cove Improvement District  
 TPDES Permit No. WQ0010798001  
 Docket No. 2010-1788-MWD-E  
 Case No. 40642

<b>EFFLUENT VIOLATION TABLE</b>			
<b>Months</b>	<b>DO Monthly Min. Conc.</b>	<b>pH Min.</b>	<b>TSS Daily Ave. Conc.</b>
	<b>Limit = 2.0 mg/L</b>	<b>Limit = 6.0 s.u.</b>	<b>Limit = 20 mg/L</b>
<b>October 2009</b>	1.88	c	c
<b>January 2010</b>	c	c	31.30
<b>February 2010</b>	c	5.43	c
<b>March 2010</b>	c	c	20.15
<b>April 2010</b>	c	c	24.40
<b>June 2010</b>	c	c	23.00

c = compliant

Ave. = average

Min. = minimum

mg/L = milligrams per Liter

s.u. = standard units

Conc. = concentration

TSS = total suspended solids

DO = dissolved oxygen



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600624555 Commodore Cove Improvement District Classification: AVERAGE Rating: 0.72

Regulated Entity: RN102286812 COMMODORE COVE ID Classification: AVERAGE Site Rating: 0.72

ID Number(s): WASTEWATER PERMIT WQ0010798001  
WASTEWATER EPA ID TX0025283  
WASTEWATER LICENSING LICENSE WQ0010798001

Location: LOCATED AT 711 ANCHOR DRIVE, APPROXIMATELY TWO MILES SOUTHEAST OF THE INTERSECTION OF COUNTY ROAD 792 AND FARM-TO-MARKET ROAD 523, BRAZORIA COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 28, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 28, 2005 to October 28, 2010

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

Name: Marty Hott Phone: (512) 239-2587

## 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.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/23/2006	(470687)
2	03/20/2006	(470688)
3	11/21/2005	(470690)
4	12/19/2005	(470691)
5	01/25/2006	(470692)
6	04/24/2006	(499658)
7	05/22/2006	(499659)
8	06/21/2006	(499660)
9	07/21/2006	(521737)
10	08/24/2006	(521738)
11	09/15/2006	(521739)
12	10/12/2006	(546353)
13	11/29/2006	(546354)
14	12/21/2006	(546355)
15	02/23/2007	(578433)

16	03/14/2007	(578434)
17	04/23/2007	(578435)
18	05/16/2007	(578436)
19	06/13/2007	(578437)
20	01/12/2007	(578438)
21	07/23/2007	(602478)
22	08/16/2007	(602479)
23	09/19/2007	(602480)
24	11/02/2007	(620674)
25	11/09/2007	(620675)
26	12/20/2007	(620676)
27	07/11/2008	(669933)
28	02/22/2008	(672916)
29	01/11/2008	(672917)
30	03/17/2008	(690977)
31	04/10/2008	(690978)
32	05/16/2008	(690979)
33	06/17/2008	(711856)
34	07/17/2008	(711857)
35	08/20/2008	(711858)
36	09/19/2008	(711859)
37	10/22/2008	(728293)
38	11/14/2008	(728294)
39	02/16/2009	(751315)
40	01/16/2009	(751316)
41	03/12/2009	(769123)
42	04/17/2009	(769124)
43	05/19/2009	(769125)
44	02/22/2010	(807142)
45	06/11/2009	(807143)
46	07/14/2009	(807144)
47	08/14/2009	(807145)
48	09/21/2009	(807146)
49	10/15/2009	(807147)
50	11/23/2009	(807148)
51	12/21/2009	(807149)
52	01/21/2010	(807150)
53	03/17/2010	(831770)
54	04/19/2010	(831771)
55	05/21/2010	(831772)
56	06/21/2010	(846547)
57	10/15/2010	(860040)
58	06/30/2010	(861105)
59	08/13/2010	(867168)

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

Date	03/31/2006	(499658)	CN600624555		
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	(578438)	CN600624555		
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	01/31/2007	(578433)	CN600624555		
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	02/28/2007	(578434)	CN600624555		
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	08/31/2007	(602480)	CN600624555		
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	(672917)	CN600624555		
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	(672916)	CN600624555		
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	(690978)	CN600624555		
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	07/09/2008	(669933)	CN600624555		
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)				
Description:	Failure to maintain the collection system to prevent or minimize inflow/infiltration (I/I).				
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to comply with the total suspended solids daily average permitted effluent limits of 20 mg/L.				
Date	10/31/2009	(807148)	CN600624555		
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	01/31/2010	(807142)	CN600624555		
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	02/28/2010	(831770)	CN600624555		
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	03/31/2010	(831771)	CN600624555		
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	04/30/2010	(831772)	CN600624555		
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	(861105)	CN600624555		
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  
COMMODORE COVE  
IMPROVEMENT DISTRICT  
RN102286812**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2010-1788-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 Commodore Cove Improvement District ("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 711 Anchor Drive, approximately two miles southeast of the intersection of County Road 792 and Farm-to-Market Road 523 in Brazoria 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 October 20, 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 Four Thousand Four Hundred Seventeen Dollars (\$4,417) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Five Hundred Thirty-Four Dollars (\$3,534) of the administrative penalty and Eight Hundred Eighty-Three Dollars (\$883) 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:
  - a. By March 13, 2010, repaired the wasting valve at the Facility;
  - b. By April 18, 2010, replaced blades on the skimmer's arms;
  - c. By June 19, 2010, replaced the shear pin in the clarifier's gear drive;
  - d. By July 31, 2010, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010798001; and
  - e. On November 5, 2010, submitted a revised discharge monitoring report ("DMR") for the monitoring period ending July 31, 2009 which included the chlorine residual monthly minimum and maximum concentration results.
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 permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010798001 Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, as documented during a record review conducted on September 7, 2010 and shown in the following table:

<b>EFFLUENT VIOLATION TABLE</b>			
<b>Months</b>	<b>DO Monthly Min. Conc.</b>	<b>pH Min.</b>	<b>TSS Daily Ave. Conc.</b>
	<b>Limit = 2.0 mg/L</b>	<b>Limit = 6.0 s.u.</b>	<b>Limit = 20 mg/L</b>
<b>October 2009</b>	1.88	c	c
<b>January 2010</b>	c	c	31.30
<b>February 2010</b>	c	5.43	c
<b>March 2010</b>	c	c	20.15
<b>April 2010</b>	c	c	24.40
<b>June 2010</b>	c	c	23.00

c = compliant

mg/L = milligrams per Liter

TSS = total suspended solids

Ave. = average

s.u. = standard units

DO = dissolved oxygen

Min. = minimum

Conc. = concentration

- Failed to submit results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0010798001 Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on September 7, 2010. Specifically, the Respondent failed to include the chlorine residual monthly minimum and maximum concentration results on the DMR for the monitoring period ending July 31, 2009.

## 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: Commodore Cove Improvement District, Docket No. 2010-1788-MWD-E" to:  
  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 1/13/2011

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 12-9-2010

M.W. LUYCK  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Commodore Cove Improvement District

\_\_\_\_\_  
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.