

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2011-0057-MWD-E **TCEQ ID:** RN104482237 **CASE NO.:** 40831

**RESPONDENT NAME:** CW SCOA West, L.P. and Harris County Municipal Utility District No. 500

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Horsepen Creek WWTP, located approximately 1,700 feet north of West Road and 3,100 feet west of Barker-Cypress Road in northwest Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</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 May 9, 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. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Kent Puckett, Vice President, CW SCOA West, L.P., 7904 North Sam Houston Parkway West, Fourth Floor, Houston, Texas 77064                  Mr. George M. Britton, President, Harris County Municipal Utility District No. 500, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027  <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> November 5, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 23, 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 the permitted effluent limitations for <i>Escherichia coli</i> ("<i>E. coli</i>") bacteria, pH, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014740001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p> <p>2) Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending November 30, 2009 by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014740001, Monitoring and Reporting Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$2,815</p> <p><b>Total Deferred:</b> \$563  <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> \$2,252</p> <p><b>Compliance History Classifications:</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 Respondents have implemented the following corrective measures at the Facility:</p> <p>a. By January 29, 2010, added sodium hydroxide to the wastewater, conducted testing, and purchased and installed alkalinity feed pump controls to address pH and <i>E. coli</i> exceedances;</p> <p>b. By July 16, 2010, cleaned and conducted maintenance on lift pumps, hauled solids, and reseeded the Facility to address total suspended solids exceedances; and</p> <p>c. By August 31, 2010, returned to compliance with the permitted effluent limits of TPDES Permit No. WQ0014740001.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs; 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 Provision a.</p>

Additional ID No(s): WQ0014740001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	29-Nov-2010	<b>Screening</b>	9-Dec-2010	<b>EPA Due</b>	
	<b>PCW</b>	12-Jan-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	CW SCOA West, L.P. and Harris County Municipal Utility District No. 500		
<b>Reg. Ent. Ref. No.</b>	RN104482237		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40831	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-0057-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>	Jennifer Graves
		<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** **15.0%** Enhancement **Subtotals 2, 3, & 7** **\$465**

Notes: Enhancement for three months of self-reported effluent 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** **\$750**

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

Total EB Amounts **\$442**  
 Approx. Cost of Compliance **\$11,798**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,815**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$2,815**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,815**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$563**

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** **\$2,252**

Screening Date 9-Dec-2010

Docket No. 2011-0057-MWD-E

PCW

Respondent CW SCOA West, L.P. and Harris County Municipal

Policy Revision 2 (September 2002)

Case ID No. 40831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104482237

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

### 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> )	3	15%
	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) 15%

#### >> 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 three months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 9-Dec-2010

Docket No. 2011-0057-MWD-E

PCW

CW SCOA West, L.P. and Harris County Municipal Utility District No.

Respondent 500

Policy Revision 2 (September 2002)

Case ID No. 40831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104482237

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0014740001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review conducted on November 5, 2010, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> 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 3 93 Number of violation days

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

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 August 31, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$424

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

## Economic Benefit Worksheet

**Respondent** CW SCOA West, L.P. and Harris County Municipal Utility District No. 500  
**Case ID No.** 40831  
**Reg. Ent. Reference No.** RN104482237  
**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)	\$3,094	31-Dec-2009	31-Aug-2010	0.67	\$7	\$137	\$144
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)	\$8,404	31-Dec-2009	31-Aug-2010	0.67	\$280	n/a	\$280

#### Notes for DELAYED costs

Actual cost to add sodium hydroxide to the wastewater, conduct testing, and purchase and install alkalinity feed pump controls to address pH and *Escherichia coli* exceedances. Date required is the initial month of noncompliance. Final date is the date of compliance. Actual cost to clean and conduct maintenance on lift pumps, haul solids, and reseed the Facility to address total suspended solids exceedances. Date required is the initial 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

\$11,498

**TOTAL**

\$424

Screening Date 9-Dec-2010

Docket No. 2011-0057-MWD-E

PCW

Respondent CW SCA West, L.P. and Harris County Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104482237

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014740001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending November 30, 2009 by the 20th day of the following month, as documented during a record review conducted on November 5, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 30

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$100

One monthly 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$115

This violation Final Assessed Penalty (adjusted for limits) \$115

# Economic Benefit Worksheet

**Respondent** CW SCOA West, L.P. and Harris County Municipal Utility District No. 500  
**Case ID No.** 40831  
**Reg. Ent. Reference No.** RN104482237  
**Media Violation No.** Water Quality  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$250	5-Nov-2010	30-Sep-2011	0.90	\$1	\$15	\$16
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)	\$50	20-Dec-2009	3-Jan-2011	1.04	\$3	n/a	\$3

#### Notes for DELAYED costs

The estimated cost to update operational guidance and conduct employee training to ensure that all monitoring records are properly maintained and all reporting requirements are met. Date required is the investigation date. Final date is the expected date of compliance. The estimated cost to prepare and submit the DMR. Date required is the date the DMR was due. Final date is the date the DMR was submitted.

### 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**

\$18

EFFLUENT VIOLATION TABLE					
CW SCOA West, L.P. and Harris County Municipal Utility District No. 500					
TPDES Permit No. WQ0014740001					
Docket No. 2011-0057-MWD-E					
Month	<i>E. coli</i> Bacteria Daily Avg. Conc.	<i>E. coli</i> Bacteria Max. Single Grab	pH Minimum	TSS Daily Avg. Conc.	TSS Max. Single Grab
	Limit = 63 CFU/100 mL	Limit = 197 CFU/100 mL	Limit = 6.0 SU	Limit = 15 mg/L	Limit = 60 mg/L
December 2009	344.1	344.1	3	c	c
March 2010	c	c	c	20.96	c
July 2010	c	c	c	25.11	157
<i>E. coli</i> = <i>Escherichia coli</i> TSS = total suspended solids Avg. = average Conc. = concentration Max. = maximum			CFU/100 mL = colonies per 100 milliliter SU = standard units mg/L = milligrams per Liter c = compliant		



# Compliance History

Customer/Respondent/Owner-Operator: CN602578411 CW SCOA West, L.P. Classification: AVERAGE Rating: 2.62  
Regulated Entity: RN104482237 HORSEPEN CREEK WWTP Classification: AVERAGE Site Rating: 0.67

ID Number(s): WASTEWATER PERMIT WQ0014740001  
WASTEWATER EPA ID TX0129071

Location: APPROX 1,700 FT N OF WEST RD  
AND 3,100 FT W OF BARKER-CYPRESS RD  
IN NW HARRIS CO, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 30, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 30, 2005 to November 30, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Jennifer Graves Phone: (956) 430-6023

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If yes, who is the current owner/operator? OWN Harris County Municipal Utility District 500
4. If yes, who was/were the prior owner(s)/operator(s)? OWN CW SCOA West, L.P.
5. When did the change(s) in owner or operator occur? 12/15/2010
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 03/10/2010 (821977)  
2 03/17/2010 (837040)  
3 04/20/2010 (837041)  
4 05/20/2010 (837042)  
5 01/25/2010 (837043)  
6 06/15/2010 (848154)  
7 07/19/2010 (862643)  
8 08/20/2010 (869218)  
9 11/23/2010 (873260)  
10 09/20/2010 (876106)

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

Date: 12/31/2009 (837043) CN602578411  
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 (837041) CN602578411

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 (869218) CN602578411  
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

# Compliance History

Customer/Respondent/Owner-Operator: CN603139999 Harris County Municipal Utility District 500 Classification: AVERAGE Rating: 0.67

Regulated Entity: RN104482237 HORSEPEN CREEK WWTP Classification: AVERAGE Site Rating: 0.67

ID Number(s): WASTEWATER PERMIT WQ0014740001  
 WASTEWATER EPA ID TX0129071

Location: APPROX 1,700 FT N OF WEST RD  
 AND 3,100 FT W OF BARKER-CYPRESS RD IN  
 NW HARRIS CO, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 12, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 12, 2006 to January 12, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Jennifer Graves Phone: (956) 430-6023

## Site Compliance History Components

- |  |  |
|--|--|
| 1. Has the site been in existence and/or operation for the full five year compliance period?       | Yes  |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | Yes  |
| 3. If yes, who is the current owner/operator?  | OWN Harris County Municipal Utility District 500 |
| 4. If yes, who was/were the prior owner(s)/operator(s)?  | OWN CW SCOA West, L.P.                           |
| 5. When did the change(s) in owner or operator occur?  | 12/15/2010 OWN CW SCOA West, L.P.                |
| 6.   |  |

### 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 03/10/2010 (821977)
- 2 03/17/2010 (837040)
- 3 04/20/2010 (837041)
- 4 05/20/2010 (837042)
- 5 01/25/2010 (837043)
- 6 06/15/2010 (848154)
- 7 07/19/2010 (862643)
- 8 08/20/2010 (869218)
- 9 11/23/2010 (873260)
- 10 09/20/2010 (876106)
- 11 10/20/2010 (883704)
- 12 11/10/2010 (890059)

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

Date: 12/31/2009 (837043) CN603139999

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 (837041)

CN603139999

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 (869218)

CN603139999

Self Report? YES

Classification: Moderate

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

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>CW SCOA WEST, L.P. AND</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>HARRIS COUNTY MUNICIPAL</b>	<b>§</b>	
<b>UTILITY DISTRICT NO. 500</b>	<b>§</b>	
<b>RN104482237</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2011-0057-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 CW SCOA West, L.P. and Harris County Municipal Utility District No. 500 ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents appear before the Commission and together stipulate that:

1. The Respondents own and/or operate a wastewater treatment plant located approximately 1,700 feet north of West Road and 3,100 feet west of Barker-Cypress Road in northwest Harris County, Texas (the "Facility").
2. The Respondents have discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about November 28, 2010.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Eight Hundred Fifteen Dollars (\$2,815) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Two Thousand Two Hundred Fifty-Two Dollars (\$2,252) of the administrative penalty and Five Hundred Sixty-Three Dollars (\$563) is deferred contingent upon the Respondents' 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 Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents 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 Respondents 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 Respondents have implemented the following corrective measures at the Facility:
  - a. By January 29, 2010, added sodium hydroxide to the wastewater, conducted testing, and purchased and installed alkalinity feed pump controls to address pH and *Escherichia coli* exceedances;
  - b. By July 16, 2010, cleaned and conducted maintenance on lift pumps, hauled solids, and reseeded the Facility to address total suspended solids exceedances; and
  - c. By August 31, 2010, returned to compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014740001.
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 Respondents have 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 owners and/or operators of the Facility, the Respondents are alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0014740001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on November 5, 2010, and shown in the following violation table:

EFFLUENT VIOLATION TABLE					
	<i>E. coli</i> Bacteria Daily Avg. Conc.	<i>E. coli</i> Bacteria Max. Single Grab	pH Minimum	TSS Daily Avg. Conc.	TSS Max. Single Grab
Month	Limit = 63 CFU/100 mL	Limit = 197 CFU/100 mL	Limit = 6.0 SU	Limit = 15 mg/L	Limit = 60 mg/L
December 2009	344.1	344.1	3	c	c
March 2010	c	c	c	20.96	c
July 2010	c	c	c	25.11	157
<i>E. coli</i> = <i>Escherichia coli</i> TSS = total suspended solids Avg. = average Conc. = concentration Max. = maximum			CFU/100 mL = colonies per 100 milliliter SU = standard units mg/L = milligrams per Liter c = compliant		

2. Failed to timely submit the DMR for the monitoring period ending November 30, 2009 by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0014740001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on November 5, 2010.

## III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' 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: CW SCOA West, L.P. and Harris County Municipal Utility District No. 500, Docket No. 2011-0057-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 Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the Respondents shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs, in accordance with TPDES Permit No. WQ0014740001; 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 No. 3.a. 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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are 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.
5. If the Respondents fail 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, 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

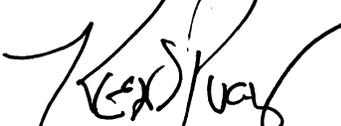
4/21/2011  
\_\_\_\_\_  
Date

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

3-2-11  
\_\_\_\_\_  
Date

KENT PUCKETT  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
CW SCOA West, L.P.

V.P.  
\_\_\_\_\_  
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.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 4/21/2011

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- 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 3-2-11

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Harris County Municipal Utility District No. 500

\_\_\_\_\_  
Title President

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