

CAPTION: Docket No. 2010-1829-MWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of FIN & FEATHER RESORT LLC in Sabine County; RN101608081; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Marty Hott, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1829-MWD-E **TCEQ ID:** RN101608081 **CASE NO.:** 40690
RESPONDENT NAME: FIN & FEATHER RESORT LLC

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

SITE WHERE VIOLATION(S) OCCURRED: Fin & Feather WWTP, located on the shoreline of Toledo Bend Reservoir approximately 500 feet north of Farm-to-Market Road 2928 and 1.2 miles due north of Oakhill Cemetery, Sabine County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 25, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Ms. Terri Ward, Owner, FIN & FEATHER RESORT LLC, 20402 Brightonwood Lane, Spring, Texas 77379

Respondent's Attorney: Not represented by counsel on this enforcement matter

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: October 6, 2010</p> <p>Date of NOV/NOE Relating to this Case: October 28, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limitations for biochemical oxygen demand 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. WQ0012143001 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$2,300</p> <p>Total Deferred: \$460 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$310 (remaining \$1,530 due in 5 monthly payments of \$306 each)</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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012143001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0012143001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Nov-2010	Screening	5-Nov-2010	EPA Due	
	PCW	24-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	FIN & FEATHER RESORT LLC				
Reg. Ent. Ref. No.	RN101608081				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	40690	No. of Violations	1	
Docket No.	2010-1829-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Marty Hott	
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for 20 months of self-reported violations, two NOVs with same/similar violations, and one order with denial of liability.

Culpability **0.0%** Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **0.0%** Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 5-Nov-2010

Docket No. 2010-1829-MWD-E

PCW

Respondent FIN & FEATHER RESORT LLC

Policy Revision 2 (September 2002)

Case ID No. 40690

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101608081

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>)	22	110%
	Other written NOVs	0	0%
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%
<i>Please Enter Yes or No</i>			
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) 130%

>> **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 20 months of self-reported violations, two NOVs with same/similar violations, and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 5-Nov-2010

Docket No. 2010-1829-MWD-E

PCW

Respondent FIN & FEATHER RESORT LLC

Policy Revision 2 (September 2002)

Case ID No. 40690

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101608081

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. WQ0012143001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on October 6, 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

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also evaluated. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

60 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$627

Violation Final Penalty Total \$2,300

This violation Final Assessed Penalty (adjusted for limits) \$2,300

Economic Benefit Worksheet

Respondent FIN & FEATHER RESORT LLC
Case ID No. 40690
Reg. Ent. Reference No. RN101608081
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	30-Apr-2010	1-Aug-2011	1.25	\$627	n/a	\$627

Notes for DELAYED costs

Estimated cost to evaluate the Facility to determine the causes of the effluent violations and complete corrective actions. Date required is the first month of noncompliance. 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	\$10,000	TOTAL	\$627
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FIN & FEATHER RESORT LLC
TPDES Permit No. WQ0012143001
Docket No. 2010-1829-MWD-E
Case No. 40690

EFFLUENT VIOLATION TABLE		
Months	BOD Daily Ave. Conc.	TSS Daily Ave. Conc.
	Limit = 10 mg/L	Limit = 15 mg/L
April 2010	10.85	26.75
June 2010	c	24.10

ave. = average

c = compliant

conc. = concentration

BOD = biochemical oxygen demand

TSS = total suspended solids

mg/L = milligrams per Liter

Compliance History Report

Customer/Respondent/Owner-Operator: CN603629056 FIN & FEATHER RESORT LLC Classification: AVERAGE Rating: 2.10

Regulated Entity: RN101608081 FIN & FEATHER WWTP Classification: AVERAGE Site Rating: 2.10

ID Number(s): WASTEWATER PERMIT WQ0012143001
 WASTEWATER EPA ID TX0079812
 WASTEWATER LICENSING LICENSE WQ0012143001

Location: LOCATED ON THE SHORELINE OF TOLEDO BEND RESERVOIR APPROXIMATELY 500 FEET NORTH OF FARM-TO-MARKET ROAD 2928 AND 1.2 MILES DUE NORTH OF OAKHILL CEMETERY, SABINE COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: November 05, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 05, 2005 to November 05, 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? Yes
3. If Yes, who is the current owner/operator?

	OWN	Fin & Feather Lodge LLC	
	OWN	FIN & FEATHER RESORT LLC	
4. If Yes, who was/were the prior owner(s)/operator(s)?

	OWN	Fin & Feather Lodge LLC	
	OWNOPR	HEAD, DORIS KAY	
	OWNOPR		
	OWN	HEAD, GARY ALAN	
5. When did the change(s) in owner or operator occur?

	03/03/2006	OWN	HEAD, GARY ALAN
	09/26/2007	OWNOPR	HEAD, DORIS KAY
	01/23/2008	OWNOPR	HEAD, DORIS KAY
	12/01/2009	OWN	Fin & Feather Lodge LLC
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: 04/05/2009	ADMINORDER 2008-1618-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/22/06	(476300)
2	04/20/06	(503413)
3	05/15/06	(503414)
4	06/21/06	(503415)
5	07/17/06	(525790)
6	08/14/06	(525791)
7	09/21/06	(525792)
8	09/05/07	(572037)
9	02/22/07	(585949)

10	03/16/07	(585950)
11	04/19/07	(585951)
12	05/14/07	(585952)
13	06/26/07	(585953)
14	10/25/06	(585954)
15	11/21/06	(585955)
16	12/13/06	(585956)
17	01/10/07	(585957)
18	07/20/07	(623958)
19	08/20/07	(623959)
20	09/24/07	(623960)
21	10/22/07	(623961)
22	10/31/07	(623962)
23	12/13/07	(623963)
24	02/22/08	(675084)
25	03/24/08	(675085)
26	01/22/08	(675086)
27	12/02/08	(688726)
28	05/01/08	(693439)
29	05/22/08	(693440)
30	10/02/08	(703653)
31	06/20/08	(714696)
32	07/11/08	(714697)
33	09/08/08	(714698)
34	09/29/08	(714699)
35	09/30/08	(730632)
36	10/09/08	(730633)
37	11/17/08	(730634)
38	12/12/08	(730635)
39	02/19/09	(753856)
40	01/13/09	(753857)
41	03/09/09	(771227)
42	04/09/09	(771228)
43	05/13/09	(771229)
44	12/03/09	(778301)
45	02/22/10	(813647)
46	06/17/09	(813648)
47	07/27/09	(813649)
48	08/31/09	(813650)
49	09/21/09	(813651)
50	10/19/09	(813652)
51	11/18/09	(813653)
52	12/11/09	(813654)
53	01/20/10	(813655)
54	10/18/10	(825464)
55	03/08/10	(834022)
56	04/23/10	(834023)
57	05/14/10	(834024)
58	10/29/10	(866598)
59	08/23/10	(868058)
60	10/28/10	(870693)

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

Date: 02/28/2006 (476300) CN603629056
 Self YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2006 (585954) CN603629056
 Self 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: 10/31/2006 (585955) CN603629056
 Self 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: 04/30/2007 (585952) CN603629056
 Self 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: 06/30/2007 (623958) CN603629056
 Self YES Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/05/2007 (572037) CN603629056
 Self NO Classification Moderate
 Citation: OT 1 PERMIT
 Description: Failure by the permittee to employ a licensed operator with a valid license to operate the wastewater treatment facility.
 Self NO Classification Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.2
 OpR 1 PERMIT
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self NO Classification Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self NO Classification Minor
 Citation: EL&MR 2&6 PERMIT
 Description: Failure by the permittee to discharge effluent that is compliant with permitted limitations.
 Self NO Classification Minor
 Citation: M&RR 2 PERMIT
 Description: Failure by the permittee to ensure that all measurements are accurately accomplished in a representative manner.
 Self NO Classification Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self NO Classification Moderate
 Citation: M&RR 7c PERMIT
 Description: Failure by the permittee to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Self Report?	NO	Classification	Minor
Citation:	M&RR 2 PERMIT		
Description:	Failure by the permittee to calibrate the dissolved oxygen (DO) meter and the check the chlorine meter with secondary standards.		
Self Report?	NO	Classification	Minor
Citation:	PC 1a PERMIT		
Description:	Failure by the permittee to report the correct analytical results on the discharge monitoring reports (DMRs).		
Date	09/30/2007 (623961)	CN603629056	
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 (675086)	CN603629056	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/29/2008 (675085)	CN603629056	
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 (693439)	CN603629056	
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	04/30/2008 (693440)	CN603629056	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2008 (714696)	CN603629056	
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	06/30/2008 (714697)	CN603629056	
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	07/31/2008 (714698)	CN603629056	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/01/2008 (730632)	CN603629056	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2008 (730633)	CN603629056	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date	10/31/2008	(730634)	CN603629056		
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	03/31/2009	(771228)	CN603629056		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	10/31/2009	(813653)	CN603629056		
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	12/03/2009	(778301)	CN603629056		
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.2 OpR 1 PERMIT				
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.				
Self Report?	NO			Classification	Minor
Citation:	M&RR 2 PERMIT				
Description:	Failure by the permittee to ensure that all measurements are accurately accomplished in a representative manner.				
Self Report?	NO			Classification	Minor
Citation:	OpR 1 PERMIT				
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.				
Self Report?	NO			Classification	Minor
Citation:	M&RR 2 PERMIT				
Description:	Failure by the permittee to calibrate the dissolved oxygen (DO) meter and the check the chlorine meter with secondary standards.				
Self Report?	NO			Classification	Minor
Citation:	PC 1a PERMIT				
Description:	Failure by the permittee to report the correct analytical results on the discharge monitoring reports (DMRs).				
Self Report?	NO			Classification	Minor
Citation:	WQ0012143001, EL&MR PERMIT				
Description:	Failure by the permittee to comply with effluent limitations. C7, Moderate 2D				
Self Report?	NO			Classification	Minor
Citation:	WQ0012143001, OpR 1 PERMIT				
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. c4, minor 3d				
Self Report?	NO			Classification	Minor
Citation:	OpR 1 PERMIT				
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. c4, minor 3d				
Self Report?	NO			Classification	Minor
Citation:	WQ0012143-001, OT 4 PERMIT				
Description:	Failure by the permittee to discharge effluent 50 feet from the shoreline and 10 feet below the surface of the lake. minor 3d				
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter A 305.1 M&RR 7c PERMIT				
Description:	Failure by the permittee to report in writing to the Regional Office an effluent exceedence of greater than 40%.				
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) OpR 4 PERMIT				
Description:	Failure by the permittee to comply with the requirement for providing safeguards in the event of a power failure.				

Date 04/30/2010 (834024) CN603629056
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 CN603629056
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
FIN & FEATHER RESORT LLC
RN101608081**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1829-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 FIN & FEATHER RESORT LLC ("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 on the shoreline of Toledo Bend Reservoir approximately 500 feet north of Farm-to-Market Road 2928 and 1.2 miles due north of Oakhill Cemetery in Sabine 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 November 2, 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 Two Thousand Three Hundred Dollars (\$2,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Ten Dollars (\$310) of the administrative penalty and Four Hundred Sixty Dollars (\$460) 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.

The remaining amount of One Thousand Five Hundred Thirty Dollars (\$1,530) of the administrative penalty shall be payable in five monthly payments of Three Hundred Six Dollars (\$306) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 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.
10. 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.
11. 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 Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012143001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 6, 2010 and shown in the following table:

EFFLUENT VIOLATION TABLE		
Months	BOD Daily Ave. Conc.	TSS Daily Ave. Conc.
	Limit = 10 mg/L	Limit = 15 mg/L
April 2010	10.85	26.75
June 2010	c	24.10

ave. = average c = compliant conc. = concentration

BOD = biochemical oxygen demand TSS = total suspended solids

mg/L = milligrams per Liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: FIN & FEATHER RESORT LLC, Docket No. 2010-1829-MWD-E" to:

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

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012143001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most

current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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

John Ordlie
For the Executive Director

3/24/2011
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.

Demi Ward
Signature

2/14/11
Date

Terri Ward
Name (Printed or typed)
Authorized Representative of
FIN & FEATHER RESORT LLC

Owner
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.