

**CAPTION: Docket No. 2010-1924-IWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Heldenfels Enterprises, Inc. in Nueces County; RN102828258; 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. (Jorge Ibarra, P.E., Laurie Eaves)**

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1924-IWD-E **TCEQ ID:** RN102828258 **CASE NO.:** 40789  
**RESPONDENT NAME:** Heldenfels Enterprises, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 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> Heldenfels Corpus Christi Plant, 1401 Navigation Boulevard, Corpus Christi, Nueces County</p> <p><b>TYPE OF OPERATION:</b> Concrete batch plant with an associated industrial treatment system</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes    <input 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 2, 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> Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Blaine R. Withers, Vice President for Operations, Heldenfels Enterprises, Inc., 5700 Interstate Highway 35 South, San Marcos, Texas 78666  Mr. Gil Heldenfels, Vice President, Heldenfels Enterprises, Inc., 5700 Interstate Highway 35 South, San Marcos, Texas 78666  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<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 1, 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 permitted effluent limits for total suspended solids, pH, and oil and grease [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and General Permit No. TXG110665, Part III Permit Requirements Section A].</p> <p>2) Failed to collect samples at the intervals specified in the permit. Specifically for Outfalls 001, 002, 003, and 004, the Respondent failed to submit the annual discharge monitoring reports for metals and the annual biomonitoring reports for the monitoring period ending February 28, 2010 [30 TEX. ADMIN. CODE §§ 305.125(11) and 319.5 and General Permit No. TXG110665, Part IV Standard Permit Conditions 7(a)].</p>	<p><b>Total Assessed:</b> \$6,570</p> <p><b>Total Deferred:</b> \$1,314  <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> \$5,256</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>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, develop and begin implementing procedures to ensure samples are collected and the results are reported; and</p> <p>b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. and the permitted effluent limitations of General Permit No. TXG110665, 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.</p>

Additional ID No(s): TXG110665



# 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>	1-Dec-2010	<b>EPA Due</b>	
	<b>PCW</b>	2-Dec-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Heldenfels Enterprises, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102828258
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40789	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1924-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra
		<b>EC's Team</b>	Enforcement Team 3
<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** **\$5,000**

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

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

**Compliance History** **25.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,250**

Notes: Enhancement for five 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** **\$0**

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

Total EB Amounts: \$961  
 Approx. Cost of Compliance: \$10,600  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$6,250**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **5.1%** **Adjustment** **\$320**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for avoided costs associated with violation No. 2.

**Final Penalty Amount** **\$6,570**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$6,570**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,314**

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** **\$5,256**

**Screening Date** 1-Dec-2010

**Docket No.** 2010-1924-IWD-E

**PCW**

**Respondent** Heldenfels Enterprises, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 40789

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102828258

**Media [Statute]** Water Quality

**Enf. Coordinator** Jorge Ibarra

### 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> )	5	25%
	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%
<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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for five months of self-reported effluent violations.

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

Screening Date 1-Dec-2010

Docket No. 2010-1924-IWD-E

PCW

Respondent Heldenfels Enterprises, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40789

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102828258

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and General Permit No. TXG110665, Part III Permit Requirements Section A

Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on November 1, 2010. See attached Effluent Limit 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 as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 62 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

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 \$626

Violation Final Penalty Total \$1,314

This violation Final Assessed Penalty (adjusted for limits) \$1,314

## Economic Benefit Worksheet

**Respondent** Heldenfels Enterprises, Inc.  
**Case ID No.** 40789  
**Reg. Ent. Reference No.** RN102828258  
**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-May-2010	31-Aug-2011	1.25	\$626	n/a	\$626

#### Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date 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**

\$626

Screening Date 1-Dec-2010

Docket No. 2010-1924-IWD-E

PCW

Respondent Heldenfels Enterprises, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40789

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102828258

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(11) and 319.5 and General Permit No. TXG110665, Part IV Standard Permit Conditions 7(a)

Violation Description

Failed to collect samples at the intervals specified in the permit, as documented during a record review on November 1, 2010. Specifically for Outfalls 001, 002, 003, and 004, the Respondent failed to collect samples and submit the annual discharge monitoring reports for metals and the annual biomonitoring reports for the monitoring period ending February 28, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

30% to 70% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

276 Number of violation days

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

Violation Base Penalty \$4,000

Four annual events are recommended, one for each outfall.

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 \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$335

Violation Final Penalty Total \$5,256

This violation Final Assessed Penalty (adjusted for limits) \$5,256

## Economic Benefit Worksheet

**Respondent** Heldenfels Enterprises, Inc.  
**Case ID No.** 40789  
**Reg. Ent. Reference No.** RN102828258  
**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				0.00	\$0	n/a	\$0
Training/Sampling	\$300	1-Nov-2010	1-Nov-2011	1.00	\$15	n/a	\$15
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 develop and begin implementing procedures to ensure samples are taken and the annual reports are submitted. Date Required is the investigation date. Final Date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$200	1-Nov-2009	1-Nov-2010	1.00	\$10	\$200	\$210
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)	\$100	1-Nov-2009	1-Nov-2010	1.92	\$10	\$100	\$110

#### Notes for AVOIDED costs

Estimated avoided cost to collect samples at each of the outfalls (\$50/outfall) and to prepare and submit the annual reports (\$25/report). Date required is one year prior to investigation date. Final date is the date of the investigation.

Approx. Cost of Compliance

\$600

**TOTAL**

\$335

**Effluent Limit Violation Table**

<b>Respondent</b>	Heldenfels Enterprises, Inc.
<b>ID Number(s)</b>	TPDES General Permit No. TXG110665; Case No. 40789
<b>Docket Number</b>	2010-1924-IWD-E
<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.

**Corresponds to Violation Number:** 1

**EFFLUENT PARAMETER  
Permit Limit**

Effluent Parameters	Total Suspended Solids Daily Max. Conc.	pH Max.	Oil and Grease Daily Max. Conc.
<b>Month/Year</b>	Limit = 65 mg/L	Limit = 9 S.U.	Limit = 15 mg/L
May 2010	217	C	C
July 2010	123	9.47	20.5
	mg/L = milligrams per liter	Max. = maximum	
	Conc. = concentration	S.U. = standard units	
	Avg. = average		
	C = compliant		

# Compliance History

Customer/Respondent/Owner-Operator:	CN600836340	Heldenfels Enterprises, Inc.	Classification: AVERAGE	Rating: 0.93
Regulated Entity:	RN102828258	HELDENFELS CORPUS CHRISTI PLANT	Classification: AVERAGE	Site Rating: 0.29
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		NE0075K
	AIR NEW SOURCE PERMITS	REGISTRATION		75861
	AIR NEW SOURCE PERMITS	REGISTRATION		78904
	WASTE WATER GENERAL PERMIT	PERMIT		TXG110665
Location:	1401 NAVIGATION BOULEVARD, CORPUS CHRISTI, TEXAS, 78407			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	December 02, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 02, 2005 to December 02, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Jordan Jones</u>	Phone:	<u>(512) 239-2569</u>	

## 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	10/30/2007	(678896)
2	12/10/2007	(678897)
3	01/15/2008	(678898)
4	04/25/2008	(698271)
5	07/16/2008	(698272)
6	07/16/2008	(698273)
7	07/16/2008	(698274)
8	06/16/2008	(698275)
9	07/16/2008	(698276)
10	07/16/2008	(698277)
11	07/16/2008	(698278)
12	07/16/2008	(698279)
13	07/16/2008	(698280)
14	03/31/2008	(719785)
15	06/17/2008	(719786)
16	08/20/2008	(719787)
17	09/19/2008	(719788)
18	10/20/2008	(719789)
19	10/22/2008	(734824)

20	11/19/2008	(734825)
21	02/20/2009	(758009)
22	03/13/2009	(758010)
23	04/03/2009	(758011)
24	02/20/2009	(758012)
25	02/20/2009	(758013)
26	05/14/2009	(774464)
27	05/20/2010	(838112)
28	05/20/2010	(838113)
29	05/20/2010	(838114)
30	05/19/2010	(838115)
31	05/20/2010	(838116)
32	05/20/2010	(838117)
33	05/20/2010	(838118)
34	05/20/2010	(838119)
35	05/20/2010	(838120)
36	05/20/2010	(838121)
37	05/20/2010	(838122)
38	05/20/2010	(838123)
39	06/15/2010	(848443)
40	07/14/2010	(862958)
41	08/03/2010	(869530)
42	11/23/2010	(872701)
43	09/03/2010	(876426)

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

Date:	04/30/2007	(698273)	CN600836340	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2007	(698279)	CN600836340	
Self Report?	YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2007	(678896)	CN600836340	
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:	05/31/2010	(848443)	CN600836340	
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	(869530)	CN600836340	
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

K. Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HELDENFELS ENTERPRISES,  
INC.  
RN102828258**

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

## **AGREED ORDER DOCKET NO. 2010-1924-IWD-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 Heldenfels Enterprises, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a concrete batch plant with an associated industrial wastewater treatment system at 1401 Navigation Boulevard in Corpus Christi, Nueces County, Texas (the "Facility").
2. The Respondent has discharged industrial 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 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Six Thousand Five Hundred Seventy Dollars (\$6,570) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Two Hundred Fifty-Six Dollars (\$5,256) of the administrative penalty and One Thousand Three Hundred Fourteen Dollars (\$1,314) 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 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:

1. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and General Permit No. TXG110665, Part III Permit Requirements Section A, as documented during a record review conducted on November 1, 2010 and shown in the table below.

Effluent Parameters	Total Suspended Solids Daily Max. Conc.	pH Max.	Oil and Grease Daily Max. Conc.
<i>Month/Year</i>	Limit = 65 mg/L	Limit = 9 S.U.	Limit = 15 mg/L
May 2010	217	C	C
July 2010	123	9.47	20.5
	mg/L = milligrams per liter	Max. = maximum	
	Conc. = concentration	S.U. = standard units	
	Avg. = average		
	C = compliant		

2. Failed to collect samples at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(11) and 319.5 and General Permit No. TXG110665, Part IV Standard Permit Conditions 7(a), as documented during a record review conducted on November 1, 2010. Specifically for Outfalls 001, 002, 003, and 004, the Respondent failed to submit the annual discharge monitoring reports ("DMR") for metals and the annual biomonitoring reports for the monitoring period ending February 28, 2010.

### 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: Heldenfels Enterprises, Inc., Docket No. 2010-1924-IWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, develop and begin implementing procedures to ensure samples are collected and the results are reported, in accordance with General Permit No. TXG110665, Part IV Standard Permit Conditions 7(a); and
  - b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. and the permitted effluent limitations of General Permit No. TXG110665, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

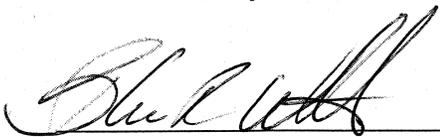
4-13-2012  
\_\_\_\_\_  
Date

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

2-9-2011  
\_\_\_\_\_  
Date

Blaine R. Withers  
\_\_\_\_\_  
Name (Printed or typed)

VP for Operations  
\_\_\_\_\_  
Title

Authorized Representative of  
Heldenfels Enterprises, Inc.

**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.