Executive Summary – Enforcement Matter – Case No. 41066
Mallard Point WWTP, LLC
RN102342722
Docket No. 2011-0158-MWD-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MWD
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Mallard Point WWTP, located approximately 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and United States Highway 69, Hunt County
Type of Operation:
Wastewater treatment facility
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: April 29, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $6,664
Amount Deferred for Expedited Settlement: $1,332
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $5,332
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41066
Mallard Point WWTP, LLC
RN102342722
Docket No. 2011-0158-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 4, 2010
Date(s) of NOE(s): January 21, 2011

Violation Information

1. Failed to comply with permitted effluent limits for 5-day biochemical oxygen demand and pH [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014215001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121].

2. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010 [TPDES Permit No. WQ0014215001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17)].

3. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to include the daily average flow measurement in the discharge monitoring report ("DMR") for the month of February 2010 [TPDES Permit No. WQ0014215001, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE § 319.1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

a. By November 10, 2010, replaced the two blowers in the aeration basin and returned to compliance with permitted effluent limits; and

b. By January 31, 2011:

i. Submitted the annual sludge report for the reporting period ending July 31, 2010; and

ii. Submitted a revised DMR for the month of February 2010 to include the daily average flow measurement.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Mr. Michael A. McBrayer, Member, 4712 Deer Valley Lane, Richardson, Texas 75082
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	24-Jan-2011				
PCW	25-Jan-2011	Screening	24-Jan-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Mallard Point WWTP, LLC		
Reg. Ent. Ref. No.	RN102342722		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41066	No. of Violations	3
Docket No.	2011-0158-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$3,200**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **132.0%** Enhancement *Subtotals 2, 3, & 7* **$4,224**

Notes: Enhancement for one order with denial, one NOV with same/similar violations, one NOV with dissimilar violations, and 21 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* **$760**

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

Total EB Amounts $55
Approx. Cost of Compliance $1,550
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$6,664**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$6,664**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$6,664**

DEFERRAL **20.0%** Reduction *Adjustment* **-$1,332**

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 **$5,332**

Screening Date 24-Jan-2011 **Docket No.** 2011-0158-MWD-E **PCW**

Respondent Mallard Point WWTP, LLC *Policy Revision 2 (September 2002)*

Case ID No. 41066 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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 (*number of NOVs meeting criteria*)	22	110%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 132%

>> 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 one order with denial, one NOV with same/similar violations, one NOV with dissimilar violations, and 21 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 132%

Screening Date 24-Jan-2011 **Docket No.** 2011-0158-MWD-E **PCW**

Respondent Mallard Point WWTP, LLC *Policy Revision 2 (September 2002)*

Case ID No. 41066 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014215001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121

Violation Description Failed to comply with permitted effluent limits. See attached Effluent Limit Violation 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. pH was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 3 242 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 November 10, 2010 for this violation.

Violation Subtotal $2,250

Economic Benefit (EB) for this violation

Estimated EB Amount $43

Statutory Limit Test

Violation Final Penalty Total $6,210

This violation Final Assessed Penalty (adjusted for limits) $6,210

Economic Benefit Worksheet

Respondent Mallard Point WWTP, LLC
Case ID No. 41066
Req. Ent. Reference No. RN102342722
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$1,000	1-Jan-2010	10-Nov-2010	0.86	$43	n/a	$43
Notes for DELAYED costs	Estimated cost to replace the two blowers in the aeration basin and return to compliance with permitted effluent limits. Date required is the first day of non-compliance, final date is the compliance date.						
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 $1,000

TOTAL $43

Screening Date	24-Jan-2011	**Docket No.** 2011-0158-MWD-E	**PCW**
Respondent	Mallard Point WWTP, LLC		*Policy Revision 2 (September 2002)*
Case ID No.	41066		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102342722		
Media [Statute]	Water Quality		
Enf. Coordinator	Jorge Ibarra, P.E.		

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0014215001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1 | 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Good Faith Efforts to Comply

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

Estimated EB Amount $10

Statutory Limit Test

Violation Final Penalty Total $232

This violation Final Assessed Penalty (adjusted for limits) $232

Economic Benefit Worksheet

Respondent Mallard Point WWTP, LLC
Case ID No. 41066
Req. Ent. Reference No. RN102342722
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				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)	$500	1-Sep-2010	31-Jan-2011	0.42	$10	n/a	$10

Notes for DELAYED costs Estimated cost to prepare and submit the required sludge report. Date required is the first day of non-compliance, final date is the compliance date.

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 $500

TOTAL $10

Screening Date	24-Jan-2011	**Docket No.** 2011-0158-MWD-E	**PCW**
Respondent	Mallard Point WWTP, LLC		*Policy Revision 2 (September 2002)*
Case ID No.	41066		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102342722		
Media [Statute]	Water Quality		
Enf. Coordinator	Jorge Ibarra, P.E.		

Violation Number 3

Rule Cite(s) TPDES Permit No. WQ0014215001, Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin. Code § 319.1

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to include the daily average flow measurement in the discharge monitoring report ("DMR") for the month of February 2010.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

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

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction — $10

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

Notes: The Respondent submitted the revised DMR on January 31, 2011.

Violation Subtotal $90

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $222

This violation Final Assessed Penalty (adjusted for limits) $222

Economic Benefit Worksheet

Respondent Mallard Point WWTP, LLC
Case ID No. 41066
Req. Ent. Reference No. RN102342722
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$50	20-Mar-2010	31-Jan-2011	0.87	$2	n/a	$2

Notes for DELAYED costs: Estimated cost to properly prepare and submit the revised DMR. Date required is the first day of non-compliance, final date is the compliance date.

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 $50

TOTAL $2

Effluent Limit Violation Table

Mallard Point WWTP, LLC

RN102342722, Case No. 41066, TPDES Permit No. WQ0014215001

2011-0158-MWD-E

Jorge Ibarra, P.E.

Corresponds to Violation Number: 1

EFFLUENT PARAMETER

Permit Limit

	BOD5 Daily Average Concentration	pH Minimum			
Month/Year	10 mg/L	6 su			
January 2010	c	5.9			
May 2010	12.2	c			
June 2010	12.2	c			
July 2010	11.88	c			
August 2010	18.6	c			

Name
milligram per liter - mg/L
Biochemical Oxygen Demand (5-day) - BOD5
standard units - su
compliant - c

Compliance History

Customer/Respondent/Owner-Operator:	CN602847345	Mallard Point WWTP, LLC	Classification: AVERAGE	Rating: 1.83
Regulated Entity:	RN102342722	MALLARD POINT WWTP	Classification: AVERAGE	Site Rating: 1.83
ID Number(s):	WASTEWATER		PERMIT	WQ0014215001
	WASTEWATER		EPA ID	TX0123528
Location:	Approximately 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and United States Highway 69 in Hunt County, Texas			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	January 24, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 24, 2006 to January 24, 2011			

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/19/2007 ADMINORDER 2007-0445-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.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Self-reporting Requirements PERMIT
Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

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	05/25/2006	(464603)
2	02/15/2006	(493337)
3	03/13/2006	(493338)
4	04/14/2006	(506725)
5	05/15/2006	(506726)

6	08/15/2006	(508745)
7	07/14/2006	(528864)
8	08/31/2006	(528865)
9	09/15/2006	(528866)
10	03/07/2007	(539774)
11	02/16/2007	(632675)
12	03/16/2007	(632676)
13	04/24/2007	(632677)
14	05/16/2007	(632678)
15	02/09/2007	(632679)
16	06/18/2007	(632680)
17	07/09/2007	(632681)
18	08/16/2007	(632682)
19	11/19/2007	(632683)
20	10/16/2006	(632684)
21	10/17/2007	(632685)
22	11/20/2006	(632686)
23	11/19/2007	(632687)
24	12/18/2006	(632688)
25	12/18/2007	(632689)
26	01/22/2007	(632690)
27	02/19/2008	(677597)
28	01/17/2008	(677598)
29	03/20/2008	(696375)
30	04/22/2008	(696376)
31	05/19/2008	(696377)
32	06/19/2008	(718028)
33	07/22/2008	(718029)
34	08/21/2008	(718030)
35	09/22/2008	(718031)
36	02/20/2009	(721970)
37	01/16/2009	(723798)
38	09/30/2008	(733332)
39	10/20/2008	(733333)
40	11/21/2008	(733334)
41	12/22/2008	(733335)
42	02/24/2009	(756467)
43	01/22/2009	(756468)
44	07/27/2009	(762932)
45	03/23/2009	(773402)
46	04/22/2009	(773403)
47	05/21/2009	(773404)
48	09/17/2009	(776556)
49	02/22/2010	(820420)
50	06/23/2009	(820421)

51	07/21/2009	(820422)
52	08/21/2009	(820423)
53	09/21/2009	(820424)
54	10/21/2009	(820425)
55	12/21/2009	(820426)
56	01/21/2010	(820427)
57	03/22/2010	(836426)
58	04/21/2010	(836427)
59	05/24/2010	(836428)
60	06/21/2010	(847966)
61	06/30/2010	(862398)
62	08/23/2010	(869018)
63	01/21/2011	(873206)
64	09/22/2010	(875864)
65	10/22/2010	(883461)
66	11/20/2009	(883462)
67	11/22/2010	(889839)

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

Date: 01/31/2006 (493337) CN602847345
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2006 (493338) CN602847345
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (506725) CN602847345
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (506726) CN602847345
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/26/2006 (464603) CN602847345
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 317 317.7(e)
Description: Failure to secure the facility.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)
WQ0014215-001 PERMIT
Description: Failure to employ a licensed wastewater operator.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 317 317.4(a)(5)
WQ0014215-001 PERMIT
Description: Failure to provide a generator at the plant site.
Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to provide a means for measuring effluent flow.
Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.4
WQ0014215-001 PERMIT
Description: Failure to monitor effluent flow, total chlorine residual (TCR) and dissolved oxygen (DO).

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
WQ0014215-001 PERMIT
Description: Failure to maintain monitoring records required by the permit.
Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

WQ0014215-001 PERMIT
Description: Failure to comply with permit limitations.
Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014215-001 PERMIT
Description: Failure to provide noncompliance notification as required.

Date 05/31/2006 (632679) CN602847345
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 06/30/2006 (528864) CN602847345
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2006 (632686) CN602847345
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 02/28/2007 (632676) CN602847345
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 03/31/2007 (632677) CN602847345
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 (632683) CN602847345
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 11/30/2007 (632689) CN602847345
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 (696375) CN602847345
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 (696376) CN602847345
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 (718029) CN602847345
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 01/31/2009 (756467) CN602847345
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 07/27/2009 (762932) CN602847345
Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 317 317.3
Description: Failure to adequately secure the lift station and manholes.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 317 317.6
Description: Failure to utilize an approved method of disinfection.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 317 317.4(c)
30 TAC Chapter 319, SubChapter A 319.11(c)
WQ0014215-001 PERMIT
Description: Failure to provide a legible staff gauge.

Date 01/31/2010 (820420) CN602847345
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 (847966) CN602847345
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 (862398) CN602847345
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 (869018) CN602847345
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 08/31/2010 (875864) CN602847345
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 09/30/2010 (883461) CN602847345

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
MALLARD POINT WWTP, LLC	**§**	
RN102342722	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0158-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 Mallard Point WWTP, 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 approximately 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and United States Highway 69 in Hunt 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 January 26, 2011.

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 Six Hundred Sixty-Four Dollars ($6,664) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Three Hundred

Thirty-Two Dollars ($5,332) of the administrative penalty and One Thousand Three Hundred Thirty-Two Dollars ($1,332) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

   a. By November 10, 2010, replaced the two blowers in the aeration basin and returned to compliance with permitted effluent limits; and

   b. By January 31, 2011:

      i. Submitted the annual sludge report for the reporting period ending July 31, 2010; and

      ii. Submitted a revised discharge monitoring report ("DMR") for the month of February 2010 to include the daily average flow measurement.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014215001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, 30 TEX. ADMIN. CODE § 305.125(1), and TEX.

WATER CODE § 26.121, as documented during a record review conducted on November 4, 2010 and shown in the table below:

EFFLUENT PARAMETER		
Permit Limit		
	BOD5 Daily Average Concentration	pH Minimum
Month/Year	10 mg/L	6 su
January 2010	c	5.9
May 2010	12.2	c
June 2010	12.2	c
July 2010	11.88	c
August 2010	18.6	c

BOD5 = Biochemical Oxygen Demand (5-day) su = standard units
mg/L = milligrams per liter c = compliant

2. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of TPDES Permit No. WQ0014215001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17), as documented during a record review conducted on November 4, 2010. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010.

3. Failed to submit monitoring results at the intervals specified in the permit, in violation of TPDES Permit No. WQ0014215001, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE § 319.1, as documented during a record review conducted on November 4, 2010. Specifically, the Respondent failed to include the daily average flow measurement in the DMR for the month of February 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: Mallard Point WWTP, LLC, Docket No. 2011-0158-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ _____
For the Executive Director Date 5/12/2011

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

By: _____ 3/15/11
Signature Date

Member of the General Partner of Mallard Point Partners, Ltd – the sole member of Mallard Point WWTP, LLC

Michael A. McBride
Name (Printed or typed)
Authorized Representative of
Mallard Point WWTP, LLC

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.