

Executive Summary – Enforcement Matter – Case No. 37451
UNITED STATES ARMY CORPS OF ENGINEERS
RN102096658, 102450889, and 102184124
Docket No. 2009-0526-MWD-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

N/A

Location(s) Where Violation(s) Occurred: Grayson, County
Preston Recreation Area Facility - approximately a half mile east of the intersection of Farm-to-Market Road 120 and the entrance to the Preston Bend Public Use Areas on the Preston Peninsula;
West Juniper Point Recreation Area Facility - approximately a quarter mile south southwest of Willis Bridge in Juniper Point Public Use Area; and
East Juniper Point Recreation Area Facility - approximately three quarters of a mile east of the south end of Willis Bridge in Juniper Point Public Use Area

Type of Operation:

waste water treatment plants

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: \$15,725

Other: The Executive Director has authority to receive payment for administrative expenses incurred in carrying out its powers and duties under the Texas Water Code. This agreement does not constitute a waiver of federal sovereign immunity for civil penalties under the Clean Water Act.

Interested Third-Parties: None

Texas Register Publication Date: May 27, 2011

Comments Received: None

Penalty Information

Administrative Costs Assessed: \$2,457

Amount Deferred for Expedited Settlement: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$2,457

Compliance History Classifications (all 3 Facilities):

Person/CN – Average

Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: February 3, 2009
Date(s) of NOV(s): October 5, 2005
Date(s) of NOE(s): April 3, 2009; June 5, 2009

Violation Information

1. Failed to file applications to renew Texas Pollutant Discharge Elimination System ("TPDES") Permit Nos. 14016001, 14059001, and 14058001 at least 180 days before the expiration dates (December 1, 2005) and continued to conduct permitted activities after the expiration date [30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), and TEX. WATER CODE § 26.121].
2. Failed to pay consolidated water quality fees and associated late fees for Account Nos. 0105514, 0105518, 0105519, 23004997, 23004999 and 23004998 for fiscal years 2002 through 2009, and failed to pay general permits storm water fees and associated late fees for Account No. 20008845 for fiscal year 2008 [30 TEX. ADMIN. CODE §§ 21.4 and 205.6, and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 180 days, submit payment for all outstanding fees.
2. Within 60 days, submit an administratively complete permit application for each Facility.
3. Within 300 days, submit written certification that either authorizations to operate the Facilities have been obtained or that operations have ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: June 5, 2009
Date Answer(s) Filed: June 24, 2009
SOAH Referral Date: August 5, 2009
Hearing Date(s):
Preliminary hearing: August 26, 2010 (waived)
Evidentiary hearing: January 11, 2011 (continued to May 10, 2011)
Settlement Date: April 29, 2011

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Jorge Ibarra, Air Enforcement Section, (817) 588-5890
TCEQ Regional Contact: Sid Slocum, Dallas/Fort Worth Regional Office, (817) 588-5901
Respondent: Michael Wingfield, Environmental Specialist, United States Army Corps of Engineers, Route 3, Box 493, Denison, Texas, 75020
Respondent's Attorney: Keith S. Francis, Assistant District Counsel, Tulsa District, 1645 S. 101st E. Avenue, Tulsa, Oklahoma 74128-4629



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 9-Apr-2009 | | | |
| | PCW | 17-Apr-2009 | Screening | 13-Apr-2009 | EPA Due |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|--|---------------------------|-------|--|--|
| Respondent | United States Army Corps of Engineers - Preston Recreation Area Lake Texoma WWTF | | | | |
| Reg. Ent. Ref. No. | RN102096658 | | | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor | | |

CASE INFORMATION

| | | | | | |
|--------------------------------|-----------------|------------------------------|--------------------|----------|--|
| Enf./Case ID No. | 37451 | No. of Violations | 2 | | |
| Docket No. | 2009-0526-MWD-E | Order Type | 1660 | | |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes | | |
| 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 | \$41,000 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------|--------------------------------|-------|
| Compliance History | 2.0% Enhancement | Subtotals 2, 3, & 7 | \$820 |
|---------------------------|------------------|--------------------------------|-------|

Notes: The Respondent was issued one NOV without the same/similar type of violations.

| | | | | |
|--------------------|-----|-------------------|-------------------|----------|
| Culpability | Yes | 25.0% Enhancement | Subtotal 4 | \$10,250 |
|--------------------|-----|-------------------|-------------------|----------|

Notes: TCEQ letter dated March 22, 2006 advising the Respondent that Permit No. 14016001 expired on December 1, 2005 and that any wastewater disposal activity at the site is a violation of Texas Administrative Code and any violation is subject to administrative penalties.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

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

Total EB Amounts: \$1,104
 Approx. Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$52,070 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|--|-------------------|--|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | | Adjustment | |
|---|--|-------------------|--|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$52,070 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$52,070 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|--|------------------|-------------------|-----|
| DEFERRAL | | Reduction | Adjustment | \$0 |
|-----------------|--|------------------|-------------------|-----|

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

Notes: No deferral due to culpability.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$52,070 |
|------------------------|----------|

| | | |
|--|-----------------------------------|---|
| Screening Date 13-Apr-2009 | Docket No. 2009-0526-MWD-E | PCW |
| Respondent United States Army Corps of Engineers - Preston Recrea | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 37451 | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. RN102096658 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Jorge Ibarra, P.E. | | |

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | <i>Enter Number Here</i> | Adjust. |
|-------------------------------|--|--------------------------|----------------|
| NOVs | Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>) | 0 | 0% |
| | Other written NOV's | 1 | 2% |
| 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) 2%

>> 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 | The Respondent was issued one NOV without the same/similar type of violations. |
|---------------------------------|--|

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

| | | | | |
|--------------------------------|---|--------------------------------------|---|------------|
| Screening Date | 13-Apr-2009 | Docket No. | 2009-0526-MWD-E | PCW |
| Respondent | United States Army Corps of Engineers - Preston Recreation Area | | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. | 37451 | <i>PCW Revision October 30, 2008</i> | | |
| Reg. Ent. Reference No. | RN102096658 | | | |
| Media [Statute] | Water Quality | | | |
| Enf. Coordinator | Jorge Ibarra, P.E. | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 305.65 and 305.125(2), and Tex. Water Code § 26.121 | | | |
| Violation Description | Failed to renew Texas Pollutant Discharge Elimination Permit No. 14016001 before expiration and is continuing to operate. | | | |

Base Penalty

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|----------------------|----------------------|----------------------|--|
| OR | Harm | | | | Percent <input type="text" value="0%"/> |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | | | | | |
|--|----------------------|-------|----------------------|----------------------|---|
| | Falsification | Major | Moderate | Minor | Percent <input type="text" value="10%"/> |
| | <input type="text"/> | x | <input type="text"/> | <input type="text"/> | |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|----------------------|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | x |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

| | | |
|---------------|----------------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | x | (mark with x) |

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent United States Army Corps of Engineers - Preston Recreation Area Lake Texoma WWTF
Case ID No. 37451
Reg. Ent. Reference No. RN102096658
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 | \$5,000 | 1-Dec-2005 | 1-May-2010 | 4.42 | \$1,104 | n/a | \$1,104 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to apply and obtain a permit to operate. Date Required is the date the permit expired. Final Date is the expected 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

\$5,000

TOTAL

\$1,104

| | | | | |
|--------------------------------|---|-------------------|-----------------|---|
| Screening Date | 13-Apr-2009 | Docket No. | 2009-0526-MWD-E | PCW |
| Respondent | United States Army Corps of Engineers - Preston Recreation Area L | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 37451 | | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. | RN102096658 | | | |
| Media [Statute] | Water Quality | | | |
| Enf. Coordinator | Jorge Ibarra, P.E. | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|----------------------|---------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Major | Moderate | Minor | Percent |
|----------------------------------|---------------|-------|----------|-------|---------------------------------------|
| | | | | | |
| <input type="text" value="N/A"/> | | | | | |
| Adjustment | | | | | <input type="text" value="\$10,000"/> |

Violation Events

Number of Violation Events Number of violation days

| | | |
|--------------------------------|----------------------|-------------------------------------|
| <i>mark only one with an x</i> | daily | <input type="text"/> |
| | weekly | <input type="text"/> |
| | mon hly | <input checked="" type="checkbox"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| single event | <input type="text"/> | |

Violation Base Penalty

Good Faith Efforts to Comply

| | | |
|---------------|-------------------------------------|----------------------------------|
| | 0.0% Reduction | <input type="text" value="\$0"/> |
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="checkbox"/> | mark with x) |

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent United States Army Corps of Engineers - Preston Recreation Area Lake Texoma WWTF
Case ID No. 37451
Reg. Ent. Reference No. RN102096658
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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

N/A

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

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 9-Apr-2009 | | | |
| | PCW | 17-Apr-2009 | Screening | 13-Apr-2009 | EPA Due |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|---|---------------------------|-------|--|--|
| Respondent | United States Army Corps of Engineers - West Juniper Point Recreation Area WWTF | | | | |
| Reg. Ent. Ref. No. | RN102450889 | | | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor | | |

CASE INFORMATION

| | | | | |
|--------------------------------|-----------------|------------------------------|--------------------|----------|
| Enf./Case ID No. | 37451 | No. of Violations | 1 | |
| Docket No. | 2009-0526-MWD-E | Order Type | 1660 | |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes | |
| 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 | \$41,000 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------|--------------------------------|-------|
| Compliance History | 2.0% Enhancement | Subtotals 2, 3, & 7 | \$820 |
|---------------------------|------------------|--------------------------------|-------|

Notes: The Respondent was issued one NOV without the same/similar type of violations.

| | | | | |
|--------------------|-----|-------------------|-------------------|----------|
| Culpability | Yes | 25.0% Enhancement | Subtotal 4 | \$10,250 |
|--------------------|-----|-------------------|-------------------|----------|

Notes: TCEQ letter dated March 22, 2006 advising the Respondent that Permit No. 14059001 expired on December 1, 2005 and that any wastewater disposal activity at the site is a violation of Texas Administrative Code and any violation is subject to administrative penalties.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

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

Total EB Amounts: \$1,104
 Approx. Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$52,070 |
|-----------------------------|-----------------------|----------|

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$52,070 |
|-----------------------------|----------|

STATUTORY LIMIT ADJUSTMENT

| | |
|-------------------------------|----------|
| Final Assessed Penalty | \$52,070 |
|-------------------------------|----------|

DEFERRAL

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

Notes:

No deferral due to culpability.

PAYABLE PENALTY

| |
|----------|
| \$52,070 |
|----------|

| | | |
|--|-----------------------------------|---|
| Screening Date 13-Apr-2009 | Docket No. 2009-0526-MWD-E | PCW |
| Respondent United States Army Corps of Engineers - West Juniper P | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 37451 | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. RN102450889 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Jorge Ibarra, P.E. | | |

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | <i>Enter Number Here</i> | Adjust. |
|-------------------------------|--|--------------------------|----------------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 1 | 2% |
| 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) 2%

>> 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 | The Respondent was issued one NOV without the same/similar type of violations. |
|---------------------------------|--|

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

| | | | | |
|--------------------------------|--|-------------------|-----------------|---|
| Screening Date | 13-Apr-2009 | Docket No. | 2009-0526-MWD-E | PCW |
| Respondent | United States Army Corps of Engineers - West Juniper Point Recre | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 37451 | | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. | RN102450889 | | | |
| Media [Statute] | Water Quality | | | |
| Enf. Coordinator | Jorge Ibarra, P.E. | | | |

| | |
|------------------------------|--|
| Violation Number | 1 |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 305.65 and 305.125(2), and Tex. Water Code § 26.121 |
| Violation Description | Failed to renew Texas Pollutant Discharge Elimination System Permit No. 14059001 before expiration and is continuing to operate. |

Base Penalty

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|----------------------|----------------------|----------------------|--|
| OR | Harm | | | | Percent <input type="text" value="0%"/> |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | | | | | |
|--|----------------------|-------|----------------------|----------------------|---|
| | Falsification | Major | Moderate | Minor | Percent <input type="text" value="10%"/> |
| | <input type="text"/> | x | <input type="text"/> | <input type="text"/> | |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|----------------------|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | x |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

Forty-one monthly events are recommended. The penalty was calculated from the permit expiration date of December 1, 2005 to the screening date of April 13, 2009.

Good Faith Efforts to Comply Reduction

| | | |
|---------------|----------------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | x | (mark with x) |

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent United States Army Corps of Engineers - West Juniper Point Recreation Area WWTF
Case ID No. 37451
Reg. Ent. Reference No. RN102450889
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 | \$5,000 | 1-Dec-2005 | 1-May-2010 | 4.42 | \$1,104 | n/a | \$1,104 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs Estimated cost to apply and obtain a permit to operate. Date Required is the date the permit expired. Final Date is the expected 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 | \$5,000 | TOTAL | \$1,104 |
|----------------------------|---------|--------------|---------|



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 9-Apr-2009 | | | |
| | PCW | 17-Apr-2009 | Screening | 13-Apr-2009 | EPA Due |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|---|---------------------------|-------|--|--|
| Respondent | United States Army Corps of Engineers - East Juniper Recreation Area Lake Texoma WWTF | | | | |
| Reg. Ent. Ref. No. | RN102184124 | | | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor | | |

CASE INFORMATION

| | | | | |
|--------------------------------|-----------------|------------------------------|--------------------|----------|
| Enf./Case ID No. | 37451 | No. of Violations | 1 | |
| Docket No. | 2009-0526-MWD-E | Order Type | 1660 | |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes | |
| 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** **\$41,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **2.0%** Enhancement **Subtotals 2, 3, & 7** **\$820**

Notes: The Respondent was issued one NOV without the same/similar type of violations.

Culpability **Yes** **25.0%** Enhancement **Subtotal 4** **\$10,250**

Notes: TCEQ letter dated March 22, 2006 advising the Respondent that Permit No. 14058001 expired on December 1, 2005 and that any wastewater disposal activity at the site is a violation of Texas Administrative Code and any violation is subject to administrative penalties.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts **\$1,104**
 Approx. Cost of Compliance **\$5,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$52,070**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$52,070**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$52,070**

DEFERRAL **Reduction** **Adjustment** **\$0**

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

Notes:

No deferral due to culpability.

PAYABLE PENALTY **\$52,070**

| | | |
|---|---|------------|
| Screening Date 13-Apr-2009 | Docket No. 2009-0526-MWD-E | PCW |
| Respondent United States Army Corps of Engineers - East Juniper Re | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 37451 | <i>PCW Revision October 30, 2008</i> | |
| Reg. Ent. Reference No. RN102184124 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Jorge Ibarra, P.E. | | |

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | <i>Enter Number Here</i> | Adjust. |
|-------------------------------|--|--------------------------|----------------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i> | 0 | 0% |
| | Other written NOVs | 1 | 2% |
| 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) 2%

>> 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 | The Respondent was issued one NOV without the same/similar type of violations. |
|---------------------------------|--|

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

| | | | | |
|--------------------------------|--|---------------------|-----------------|---|
| Screening Date | 13-Apr-2009 | Docket No. | 2009-0526-MWD-E | PCW |
| Respondent | United States Army Corps of Engineers - East Juniper Recreation | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 37451 | | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. | RN102184124 | | | |
| Media [Statute] | Water Quality | | | |
| Enf. Coordinator | Jorge barra, P.E. | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 305.65 and 305.125(2), and Tex. Water Code § 26.121 | | | |
| Violation Description | Failed to renew Texas Pollutant Discharge Elimination System Permit No. 14058001 before expiration and is continuing to operate. | | | |
| | | Base Penalty | \$10,000 | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|-------------|----------|-------|-------------------|
| OR | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | Percent 0% |
| Potential | | | | | |

>> Programmatic Matrix

| | | | | | |
|---------------------|---|-------|----------|-------|--------------------|
| | Falsification | Major | Moderate | Minor | |
| | | x | | | Percent 10% |
| Matrix Notes | 100% of the rule requirement was not met. | | | | |

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 41 1229 Number of violation days

| | | |
|--------------------------------|--------------|---|
| <i>mark only one with an x</i> | daily | |
| | weekly | |
| | monthly | x |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$41,000

Forty-one monthly events are recommended. The penalty was calculated from the permit expiration date of December 1, 2005 to the screening date of April 13, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

| | | |
|---------------|------------|-------------------------|
| | Before NOV | NOV to EDPRP/Settlement |
| Extraordinary | | |
| Ordinary | | |
| N/A | x | mark with x) |

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

Violation Subtotal \$41,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$1,104 **Violation Final Penalty Total** \$52,070

This violation Final Assessed Penalty (adjusted for limits) \$52,070

Economic Benefit Worksheet

Respondent United States Army Corps of Engineers - East Juniper Recreation Area Lake Texoma WWTF
Case ID No. 37451
Reg. Ent. Reference No. RN102184124
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 | \$5,000 | 1-Dec-2005 | 1-May-2010 | 4.42 | \$1,104 | n/a | \$1,104 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs Estimated cost to apply and obtain a permit to operate. Date Required is the date the permit expired. Final Date is the expected 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 | \$5,000 | TOTAL | \$1,104 |
|-----------------------------------|---------|--------------|---------|

Compliance History Report

Customer/Respondent/Owner-Operator: CN600918916 US Army Corps of Engineers Classification: AVERAGE Rating: 2.44
 Regulated Entity: RN102096658 PRESTON RECREATION AREA Classification: AVERAGE Site Rating: 2.00
 LAKE TEXOMA
 ID Number(s): WASTEWATER PERMIT WQ0014016001
 Location: LOCATED APPROX 0.5 MI E OF INTERSECTION
 COUNTY ROAD 120 AND AT THE ENTRANCE TO THE
 PRESTON BEND E PUBLIC USE AREA ON THE
 PRESTON PENINSULA IN GRAYSON COUNTY, TEXAS
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: April 14, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 14, 2004 to April 14, 2009

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: 9/1/2008 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 10/06/2005 (433020)
 - 2 04/03/2009 (726466)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

| | | |
|------------------|---|--------------------------|
| Date: 10/05/2005 | (433020) | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.5(b) | |
| Description: | Failure to perform sampling and analyses at the frequency specified in the permit. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.7(a) | |
| | 30 TAC Chapter 319, SubChapter A 319.7(c) | |
| Description: | Failure to maintain adequate calibration and maintenance records for analytical equipment used. | |
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN600918916 US Army Corps of Engineers Classification: AVERAGE Rating: 2.44
 Regulated Entity: RN102450889 WEST JUNIPER POINT RECREATION AREA WWTF Classification: AVERAGE Site Rating: 2.00
 ID Number(s): WASTEWATER PERMIT WQ0014059001
 Location: 0.25 MILES S SW OF WILLIS BRIDGE IN JUNIPER POINT PUBLIC USE AREA IN GRAYSON COUNTY
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: April 14, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 14, 2004 to April 14, 2009

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: 9/1/2008 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 | 10/06/2005 | (433018) |
| 2 | 04/03/2009 | (726465) |
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

| | | |
|--------------|---|--------------------------|
| Date: | 10/05/2005 | (433018) |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.5(b) | |
| Description: | Failure to perform sampling and analyses at the frequency specified in the permit. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.7(a) | |
| | 30 TAC Chapter 319, SubChapter A 319.7(c) | |
| Description: | Failure to maintain adequate calibration and maintenance records for analytical equipment used. | |
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN600918916 US Army Corps of Engineers Classification: AVERAGE Rating: 2.44
 Regulated Entity: RN102184124 EAST JUNIPER RECREATION Classification: AVERAGE Site Rating: 1.00
 AREA LAKE TEXOMA
 ID Number(s): WASTEWATER PERMIT WQ0014058001
 Location: LOCATED APPROX 0.75 MI E OF THE S END OF
 WILLIS BRIDGE IN JUNIPER POINT PUBLIC USE
 AREA IN GRAYSON COUNTY, TEXAS
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: April 14, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 14, 2004 to April 14, 2009

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: 9/1/2008 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 10/06/2005 (433019)
 2 04/03/2009 (726464)

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

Date: 10/05/2005 (433019)

CN600918916

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)

Description: Failure to perform sampling and analyses at the frequency specified in the permit.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)

30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain adequate calibration and maintenance records for analytical equipment used.

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

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



| | | |
|--|--|--|
| <p>IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING UNITED STATES ARMY CORPS OF ENGINEERS; RN102096658, RN102450889, AND RN102184124</p> | <p>§ § § § § § §</p> | <p>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</p> |
|--|--|--|

AGREED ORDER

DOCKET NO. 2009-0526-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding United States Army Corps of Engineers ("Respondent") under the authority of TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Keith S. Francis, Assistant District Counsel for the United States Army Corps of Engineers, Tulsa District, appear before the Commission and together stipulate that:

1. Respondent owns and operates three waste water treatment plants in Grayson County, Texas (collectively referred to as the "Facilities"), as follows:
 - a. The Preston Recreation Area Facility (RN102096658), located approximately a half mile east of the intersection of County Road 120 and the entrance to the Preston Bend East Public Use Area on the Preston Peninsula;
 - b. The West Juniper Point Recreation Area Facility (RN102450889), located approximately a quarter mile south southwest of Willis Bridge in Juniper Point Public Use Area; and
 - c. The East Juniper Point Recreation Area Facility (RN102184124), located approximately three quarters of a mile east of the south end of Willis Bridge in Juniper Point Public Use Area.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction for purposes of this Agreed Order as described in Jurisdiction and Stipulations No. 5 below.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. Pursuant to TEX. WATER CODE § 5.233, the Commission has the authority to receive payment of reasonable service charges to enforce compliance with 30 TEX. ADMIN. CODE §§ 21.4, 205.6, 305.65 and 305.125(2), and TEX. WATER CODE §§ 5.702 and 26.121 against Respondent in settlement of the violations alleged in Section II. This Agreed Order and the payment of reasonable service charges do not constitute a waiver of federal sovereign immunity for civil penalties under the Clean Water Act, nor shall this Agreed Order constitute an admission by Respondent that such a waiver of federal sovereign immunity exists.
6. The Allegations required the TCEQ to expend capital and resources and incur costs in the administration of its regulatory program. Specifically, the TCEQ has documented costs in the amount of two thousand four hundred fifty-seven dollars (\$2,457.00), which are described in Exhibit A attached to this Agreed Order. The TCEQ agrees to accept two thousand four hundred fifty-seven dollars (\$2,457.00) in compromise and satisfaction of potential claims for reimbursement for reasonable service charges or administrative costs relating to the Allegations herein that may exceed two thousand four hundred fifty-seven dollars (\$2,457.00).
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 Respondent agree on a settlement of the matters addressed in this Agreed Order, 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 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

1. During an investigation conducted on February 3, 2009, at the Preston Recreation Area Facility, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent violated 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2) and TEX. WATER CODE § 26.121, by failing to file an application to renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14016001 at least 180 days before the expiration date, and by continuing to conduct permitted activities after the expiration date. Specifically, the TPDES permit expired December 1, 2005.

2. During an investigation conducted on February 3, 2009, at the West Juniper Point Recreation Area Facility, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent violated 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2) and TEX. WATER CODE § 26.121, by failing to renew TPDES Permit No. 14059001 at least 180 days before the expiration date, and by continuing to conduct permitted activities after the expiration date. Specifically, the TPDES permit expired December 1, 2005.
3. During an investigation conducted on February 3, 2009, at the East Juniper Point Recreation Area Facility, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent violated 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2) and TEX. WATER CODE § 26.121, by failing to renew TPDES Permit No. 14058001 at least 180 days before the expiration date, and by continuing to conduct permitted activities after the expiration date. Specifically, the TPDES permit expired December 1, 2005.
4. During a record review conducted on April 13, 2009, TCEQ Enforcement Division staff documented that Respondent violated 30 TEX. ADMIN. CODE §§ 21.4 and 205.6, and TEX. WATER CODE § 5.702 by failing to pay consolidated water quality fees and associated late fees for Account Nos. 0105514, 0105518, 0105519, 23004997, 23004999, and 23004998 for fiscal years 2002 through 2009, and failing to pay general permits storm water fees and associated late fees for Account No. 20008845 for fiscal year 2008.
5. Respondent received notice of the violations in paragraphs 1 through 3 above on or about April 8, 2009, and the violations in paragraph 4 above on or about June 10, 2009.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that, within 90 days after the effective date of this Agreed Order, Respondent shall pay reasonable service charges as set forth in Section I, Paragraph 6, above. The payment of these reasonable service charges and 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 considering or requiring corrective actions, reasonable service charges, or penalties for violations which are not raised here. Payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: United States Army Corps of Engineers, Docket No. 2009-0526-MWD-E" to:

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

2. Respondent shall undertake the following technical requirements:

- a. Within 180 days after the effective date of this Agreed Order, Respondent shall submit payment for all outstanding fees with the notation, "United States Army Corps of Engineers - Financial Account Nos. 0105514, 0105518, 0105519, 23004997, 23004999, and 23004998" (Allegation 1.b.), 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

- b. Within 60 days after the effective date of this Agreed Order, Respondent shall submit administratively complete TPDES permit applications for each of the Facilities (Allegations 1 through 3), in accordance with 30 TEX. ADMIN. CODE ch. 305 (relating to Consolidated Permits) to:

Water Quality Applications Team, Permits Administrative Review Section
Registration, Review and Reporting Division, MC 161
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Respond completely and adequately to all requests for information concerning the TPDES permit applications within 30 days after the date of such requests or by any other deadline specified in writing;
- d. Within 300 days after the effective date of this Agreed Order, Respondent shall submit written certification that either authorizations to operate the Facilities have been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall be notarized by a State of Texas Notary Public and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the operations of the Facilities referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual

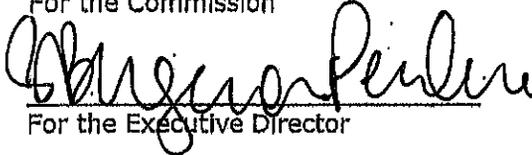
signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

6/29/2011

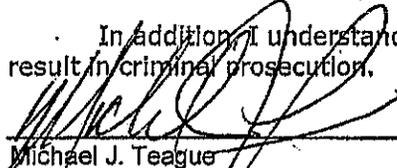
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of United States Army Corps of Engineers, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Michael J. Teague
Colonel, U.S. Army
District Commander,
U.S. Army Corps of Engineers
Tulsa District

29 APRIL 2011

Date

EXHIBIT A

Texas Commission on Environmental Quality
Legal Services and Compliance & Enforcement Administrative Costs for
US Army Corps of Engineers TCEQ Docket No. 2009-0526-MWD-E

Office of Legal Services

Litigation Division

Xavier Guerra, Staff Attorney

20:15 hours @ \$30.26/hour **\$ 612.77**

4:00 hours - Drafting petition

8:30 hours - Research

3:15 hours - Filing motions and SOAH referral

0:30 hours - Preparing correspondence

4:00 hours - Drafting agreed order

Total Salary **\$ 612.77**

Fringe Benefits (30.68%) **\$ 188.00**

Indirect Cost (26.01%) **\$ 159.38**

Litigation Division Total Cost **\$ 960.15**

Office of Compliance and Enforcement

Enforcement Division

Jorge Ibarra, Enforcement Coordinator

20 hours @ \$28.38/hour **\$ 567.60**

Field Operations Division

Michelle Havelka, Natural Resource Specialist

36 hours @ \$25.81/hour **\$ 929.16**

Enforcement Division Total Cost **\$ 1,496.76**

TCEQ Total Cost **\$ 2,456.91**