

Executive Summary – Enforcement Matter – Case No. 41467

QUARTERS, LLC

RN101517589

Docket No. 2011-0565-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Jacinto Port Industrial Development WWTP, approximately 1.5 miles southwest of the confluence of the Houston Ship Channel and Carpenter's Bayou, in the eastern part of Harris County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 24, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,202

Amount Deferred for Expedited Settlement: \$240

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$962

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. 41467

QUARTERS, LLC

RN101517589

Docket No. 2011-0565-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 1, 2011

Date(s) of NOE(s): March 23, 2011

Violation Information

1. Failed to comply with the permitted effluent limitations for five day carbonaceous biochemical oxygen demand and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0012318001, Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to timely submit the discharge monitoring report (“DMR”) for the monitoring period ending June 30, 2010, by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d), and TPDES Permit No. WQ0012318001, Monitoring and Reporting Requirements No. 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 December 3, 2010, reseeded the Facility;
- b. By December 31, 2010, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0012318001; and
- c. By April 1, 2011, submitted the DMR for the monitoring period ending June 30, 2010.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs; and
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

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QUARTERS, LLC

RN101517589

Docket No. 2011-0565-MWD-E

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division,
Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Frank H. Hamilton III, Manager, QUARTERS, LLC, P.O. Box 1886,
Wilmington, North Carolina 28402

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	28-Mar-2011	Screening	13-Apr-2011	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	QUARTERS, LLC
Reg. Ent. Ref. No.	RN101517589
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41467	No. of Violations	2
Docket No.	2011-0565-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 13-Apr-2011

Docket No. 2011-0565-MWD-E

PCW

Respondent QUARTERS, LLC

Case ID No. 41467

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101517589

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	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) 32%

>> 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 four months of self-reported effluent violations, two NOVs with same/similar violations, and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 32%

Screening Date 13-Apr-2011

Docket No. 2011-0565-MWD-E

PCW

Respondent QUARTERS, LLC

Policy Revision 2 (September 2002)

Case ID No. 41467

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101517589

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012318001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on March 1, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	10%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent achieved compliance by December 31, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

Economic Benefit Worksheet

Respondent QUARTERS, LLC
Case ID No. 41467
Reg. Ent. Reference No. RN101517589
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$376	30-Sep-2010	31-Dec-2010	0.25	\$0	\$6	\$7
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

Actual cost to reseed the Facility to address five day carbonaceous biochemical oxygen demand and total suspended solids exceedances. Date required is the initial month of noncompliance. Final date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$376

TOTAL

\$7

Screening Date 13-Apr-2011
Respondent QUARTERS, LLC
Case ID No. 41467
Reg. Ent. Reference No. RN101517589
Media [Statute] Water Quality
Enf. Coordinator Jennifer Graves

Docket No. 2011-0565-MWD-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0012318001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending June 30, 2010, by the 20th day of the following month, as documented during a record review conducted on March 1, 2011.

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

	Major	Moderate	Minor	Percent
Falsification	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text" value="1%"/>

Matrix Notes

Less than 30% of the permit requirement was not met.

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	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

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

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 QUARTERS, LLC
Case ID No. 41467
Reg. Ent. Reference No. RN101517589
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)	\$250	1-Mar-2011	31-Jan-2012	0.92	\$1	\$15	\$16
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	20-Jul-2010	1-Apr-2011	0.70	\$2	n/a	\$2

Notes for DELAYED costs

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

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$18

EFFLUENT VIOLATION TABLE

QUARTERS, LLC

TPDES Permit No. WQ0012318001

Docket No. 2011-0565-MWD-E

Months	CBOD ₅ Daily Avg. Conc.	CBOD ₅ Max. Single Grab	TSS Max. Single Grab
	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 60 mg/L
September 30, 2010	29.0	94	90
October 31, 2010	12.5	c	c
November 30, 2010	28.6	108	c

CBOD₅ = five day carbonaceous biochemical
oxygen demand

Max. = Maximum
mg/L = milligrams per Liter

TSS = total suspended solids

c = compliant

Avg. = Average

Conc. = Concentration

Compliance History

Customer/Respondent/Owner-Operator: CN600793145 QUARTERS, LLC Classification: AVERAGE Rating: 1.61
Regulated Entity: RN101517589 JACINTOPORT INDUSTRIAL Classification: AVERAGE Site Rating: 0.21
DEVELOPMENT WWTP

ID Number(s): WASTEWATER PERMIT WQ0012318001
WASTEWATER EPA ID TX0117897
WASTEWATER LICENSING LICENSE WQ0012318001

Location: LOCATED IN THE JACINTOPORT
INDUSTRIAL DEVELOPMENT, APPROX.
1.5 M SW OF THE CONFLUENCE OF
HOUSTON SHIP CHANNEL AND CARPENTER'S
BAYOU IN THE EASTERN PART OF HARRIS CO,
TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 30, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 30, 2006 to March 30, 2011

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

Name: Jennifer Graves Phone: (956) 430-6023

Site Compliance History Components

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

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/06/2006	(463921)
2	08/08/2006	(489943)
3	04/28/2006	(506078)
4	05/22/2006	(506079)
5	06/19/2006	(506080)
6	07/20/2006	(528307)
7	09/12/2006	(528308)
8	09/25/2006	(528309)
9	02/13/2007	(588873)
10	03/16/2007	(588874)
11	04/16/2007	(588875)
12	05/14/2007	(588876)
13	06/13/2007	(588877)
14	07/19/2007	(588878)
15	10/23/2006	(588879)

16 11/13/2006 (588880)
 17 12/15/2006 (588881)
 18 01/12/2007 (588882)
 19 10/31/2007 (598566)
 20 12/10/2007 (611469)
 21 08/20/2007 (630930)
 22 09/19/2007 (630931)
 23 10/18/2007 (630932)
 24 11/27/2007 (630933)
 25 12/14/2007 (630934)
 26 01/15/2008 (630935)
 27 02/15/2008 (677162)
 28 03/13/2008 (677163)
 29 04/21/2008 (677164)
 30 05/19/2008 (695817)
 31 06/16/2008 (695818)
 32 07/15/2008 (695819)
 33 08/14/2008 (717392)
 34 09/16/2008 (717393)
 35 10/24/2008 (717394)
 36 11/20/2008 (732755)
 37 12/17/2008 (732756)
 38 01/20/2009 (732757)
 39 02/11/2009 (756007)
 40 04/01/2009 (756008)
 41 04/21/2009 (756009)
 42 05/20/2009 (772990)
 43 06/10/2009 (772991)
 44 05/19/2010 (835950)
 45 09/07/2010 (844926)
 46 06/20/2010 (847830)
 47 07/20/2010 (862236)
 48 08/20/2010 (868839)
 49 09/17/2010 (875708)
 50 10/20/2010 (883264)
 51 12/17/2010 (884435)
 52 11/19/2010 (889674)
 53 12/20/2010 (898046)
 54 03/24/2011 (901173)
 55 01/19/2011 (903942)

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

Date: 06/06/2006 (463921) CN600793145
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.3
 Description: Failure to maintain the standby pump in the onsite lift station.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)(4)(B)
 Description: Failure to provide at least two operational blowers.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to properly complete the Discharge Monitoring Reports (DMRs).

Date: 08/31/2006 (528309) CN600793145
 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: 10/31/2007 (598566) CN600793145
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)(4)(B)
 Description: Failure to provide an operational back-up blower.

Self Report? NO Classification: Moderate
 Citation: 12318-001 PERMIT

30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)
Description: Failure to properly operate and maintain the wastewater treatment plant.

Date: 09/07/2010 (844926) CN600793145
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to provide a Reduced Pressure Zone (RPZ) backflow prevention device for the potable water line to the Quarters, LLC wastewater treatment plant (WWTP).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3
Description: Failure to provide a functional high level alarm for the on-site lift station.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)
30 TAC Chapter 317 317.4(g)
30 TAC Chapter 317 317.6(b)(3)
Oper. Requ., No. 1, Pg.9 PERMIT
Description: Failure to properly operate and maintain the wastewater treatment plant (WWTP).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permitted effluent limits for Enterococci and dissolved oxygen.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to provide a legible staff gauge at a correct location.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to properly complete and submit the discharge monitoring reports (DMRs).

Date: 09/30/2010 (883264) CN600793145
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2010 (889674) CN600793145
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: 11/30/2010 (898046) CN600793145
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

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
QUARTERS, LLC
RN101517589**

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

**AGREED ORDER
DOCKET NO. 2011-0565-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 QUARTERS, 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 a wastewater treatment plant located in the Jacintoport Industrial Development, approximately 1.5 miles southwest of the confluence of the Houston Ship Channel and Carpenter's Bayou in the eastern part of Harris 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 March 28, 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 One Thousand Two Hundred Two Dollars (\$1,202) is assessed by the Commission in settlement of the violations alleged in Section

- II ("Allegations"). The Respondent has paid Nine Hundred Sixty-Two Dollars (\$962) of the administrative penalty and Two Hundred Forty Dollars (\$240) 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 December 3, 2010, reseeded the Facility;
 - b. By December 31, 2010, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012318001; and
 - c. By April 1, 2011, submitted the discharge monitoring report ("DMR") for the monitoring period ending June 30, 2010.
 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 of the Facility, the Respondent is alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0012318001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on March 1, 2011, and shown in the following violation table:

EFFLUENT VIOLATION TABLE			
Months	CBOD ₅ Daily Avg. Conc.	CBOD ₅ Max. Single Grab	TSS Max. Single Grab
	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 60 mg/L
September 30, 2010	29.0	94	90
October 31, 2010	12.5	c	c
November 30, 2010	28.6	108	c
CBOD ₅ = five day carbonaceous biochemical oxygen demand		Max. = Maximum	
TSS = total suspended solids		mg/L = milligrams per Liter	
Avg. = Average		c = compliant	
Conc. = Concentration			

- Failed to timely submit the DMR for the monitoring period ending June 30, 2010, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d) and TPDES Permit No. WQ0012318001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on March 1, 2011.

III. DENIALS

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

IV. ORDERING PROVISIONS

- 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: QUARTERS, LLC, Docket No. 2011-0565-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs, in accordance with TPDES Permit No. WQ0012318001; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

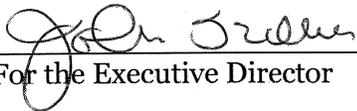
aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/6/2011

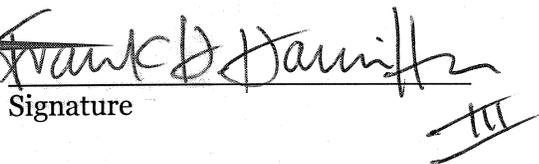
Date

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

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

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

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



Signature

5/25/2011

Date

Frank H. Hamilton III

Name (Printed or typed)
Authorized Representative of
QUARTERS, LLC

MANAGER, QUARTERS, 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.