

Executive Summary – Enforcement Matter – Case No. 36741
Avalon Water Supply and Sewer Service Corporation
RN101511863
Docket No. 2011-1488-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Avalon Water Supply and Sewer Service Corporation, located approximately 1,100 feet west of State Highway (“SH”) 55 and approximately 1,900 feet south of the intersection of SH 34 and SH 55, Avalon, Ellis 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: September 24, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$66,275

Amount Deferred for Expedited Settlement: \$66,275

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

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. 36741
Avalon Water Supply and Sewer Service Corporation
RN101511863
Docket No. 2011-1488-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 6, 2011

Date(s) of NOE(s): August 22, 2011

Violation Information

1. Failed to comply with permitted effluent limits for 5-day biochemical oxygen demand, residual chlorine, dissolved oxygen, flow, and total suspended solids [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and Agreed Order Docket No. 2008-1716-MWD-E, Ordering Provision No. 2.b.].
2. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [TPDES Permit No. WQ0013981001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1)].
3. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [TPDES Permit No. WQ0013981001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. By September 8, 2011, provided an adequate audio-visual system at the lift station.
- b. By November 15, 2011:
 - i. Replaced the rotor at the racetrack/equalization basin with underwater nozzles by an external air pump delivering approximately 75 cubic feet per minute;
 - ii. Repaired the inside cracked wall of the racetrack/equalization basin; and
 - iii. Removed all solids from the racetrack/equalization basin and placed them on the north and east sides of the east lagoon for future processing.

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days, properly process and dispose of all the solids that were removed from the racetrack/equalization basin on November 15, 2011; and

**Executive Summary – Enforcement Matter – Case No. 36741
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Docket No. 2011-1488-MWD-E**

b. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013981001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations and with Ordering Provision a.

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: David Walshes, President, Avalon Water Supply and Sewer Service Corporation, P.O. Box 246, Itasca, Texas 76055
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 22-Aug-2011 | Screening | 23-Aug-2011 | EPA Due | |
| | PCW | 8-Sep-2011 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | |
|-----------------------------|---|---------------------------------|
| Respondent | Avalon Water Supply and Sewer Service Corporation | |
| Reg. Ent. Ref. No. | RN101511863 | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source Minor |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 36741 | No. of Violations | 5 |
| Docket No. | 2011-1488-MWD-E | Order Type | Findings |
| 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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes Enhancement for one order with denial of liability, two NOVs with similar violations, and 33 months of self-reported effluent violations.

Culpability Enhancement **Subtotal 4**

Notes The Respondent does not meet the culpability criteria.

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 Recommend reduction in penalty so that the monthly self-reported effluent violations do not overly-impact the penalty amount.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 23-Aug-2011

Docket No. 2011-1488-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (Section 10.0)

Case ID No. 36741

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 35 | 175% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |

se Enter Yes or No

| | | | | |
|-------|-------------------|--|----|----|
| Other | Environm | | No | 0% |
| | Voluntary on-site | | No | 0% |
| | Participat | | No | 0% |
| | Early complian | | No | 0% |

Adjustment Percentage (Subtotal 2) 195%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability, two NOVs with similar violations, and 33 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 195%

Screening Date 23-Aug-2011

Docket No. 2011-1488-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Agreed Order Docket No. 2008-1716-MWD-E, Ordering Provision No. 2.b.

Violation Description Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | x |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) (BOD5) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids (TSS), dissolved oxygen (DO), chlorine residual and flow values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 10 780 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$10,000

Ten quarterly events are recommended from effective date of Agreed Order Docket No. 2008-1716-MWD-E of March 23, 2009 to the screening date of August 23, 2011 for the months of March 2009 through November 2009, January 2010 through August 2010, November 2010, and January 2011 through August 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,638

Violation Final Penalty Total \$22,492

This violation Final Assessed Penalty (adjusted for limits) \$22,492

Economic Benefit Worksheet

Respondent Avalon Water Supply and Sewer Service Corporation
Case ID No. 36741
Reg. Ent. Reference No. RN101511863
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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|------------|------|---------|-----|---------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$10,000 | 23-Mar-2009 | 1-Jul-2012 | 3.28 | \$1,638 | n/a | \$1,638 |

Notes for DELAYED costs

Estimated cost to evaluate the system to determine the cause of the exceedances and to develop and implement measures to ensure compliance with permit effluent limits. Date required is the effective date of Agreed Order Docket No. 2008-1716-MWD-E and the 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

\$10,000

TOTAL

\$1,638

Screening Date 23-Aug-2011

Docket No. 2011-1488-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Agreed Order Docket No. 2008-1716-MWD-E, Ordering Provision No. 2.b.

Violation Description Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | X | | 25% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes A simplified model was used to evaluate BOD5 to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. TSS and DO values were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 30 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended for the month of September 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,623

This violation Final Assessed Penalty (adjusted for limits) \$5,623

Economic Benefit Worksheet

Respondent Avalon Water Supply and Sewer Service Corporation
Case ID No. 36741
Req. Ent. Reference No. RN101511863
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

See economic benefit for Violation No. 1.

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

Screening Date 23-Aug-2011

Docket No. 2011-1488-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s) TPDES Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Agreed Order Docket No. 2008-1716-MWD-E, Ordering Provision No. 2.b.

Violation Description Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | x | | | 50% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes

A simplified model was used to evaluate BOD5 to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. TSS, Flow and DO values were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3 Number of violation days 93

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

Violation Base Penalty \$15,000

Three monthly events are recommended the months of December 2009, October 2010 and December 2010.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$33,738

This violation Final Assessed Penalty (adjusted for limits) \$33,738

Economic Benefit Worksheet

Respondent Avalon Water Supply and Sewer Service Corporation
Case ID No. 36741
Req. Ent. Reference No. RN101511863
Media Water Quality
Violation No. 3

| 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

See economic benefit for Violation No. 1.

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

Screening Date 23-Aug-2011

Docket No. 2011-1488-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s)

TPDES Permit No. WQ0013981001, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, during the July 6, 2011 investigation, the rotor at the racetrack/equalization basin was not functional and there were excessive floating and settled solids throughout the basin and the inside wall was cracked.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | x | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

48 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 from investigation date of July 6, 2011 to the screening date of August 23, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$123

Violation Final Penalty Total \$2,249

This violation Final Assessed Penalty (adjusted for limits) \$2,249

Economic Benefit Worksheet

Respondent Avalon Water Supply and Sewer Service Corporation
Case ID No. 36741
Rea. Ent. Reference No. RN101511863
Media Water Quality
Violation No. 4

| 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) | \$3,000 | 6-Jul-2011 | 1-May-2012 | 0.82 | \$123 | n/a | \$123 |

Notes for DELAYED costs

Estimated cost to properly operate and maintain the racetrack/equalization basin. Date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$123

Screening Date 23-Aug-2011

Docket No. 2011-1488-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 5

Rule Cite(s) TPDES Permit No. WQ0013981001, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed provide an adequate audio-visual system as the system is inside an enclosed structure and there is no emergency phone number provided to contact the operator in case of an emergency at the lift station.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | x | |

Percent 10%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 48

| | |
|--------------|---|
| 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 from investigation date of July 6, 2011 to the screening date of August 23, 2011.

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes

The Respondent achieved compliance by September 8, 2011 for this violation.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$2,173

This violation Final Assessed Penalty (adjusted for limits) \$2,173

Economic Benefit Worksheet

Respondent Avalon Water Supply and Sewer Service Corporation
Case ID No. 36741
Reg. Ent. Reference No. RN101511863
Media Water Quality
Violation No. 5

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$500 | 6-Jul-2011 | 8-Sep-2011 | 0.18 | \$4 | n/a | \$4 |

Notes for DELAYED costs

Estimated cost to provide an audio/visual alarm system at the lift station and provide an emergency phone number. Date required is the investigation date and the 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

\$500

TOTAL

\$4

Effluent Limit Violation Table

Avalon Water Supply and Sewer Service Corporation

RN101511863, Case No. 36741, TPDES Permit No. WQ0013981001

2011-1488-MWD-E

Jorge Ibarra, P.E.

Corresponds to Violation Number:

1, 2 & 3

EFFLUENT PARAMETER

Permit Limit

| | BOD5 Daily Average Concentration | BOD5 Daily Average Loading | Cl Residual Maximum Concentration | DO Minimum Concentration | TSS Daily Average Concentration | TSS Daily Average Loading | TSS Single Grab Concentration | Flow |
|-------------------|----------------------------------|----------------------------|-----------------------------------|--------------------------|---------------------------------|---------------------------|-------------------------------|-----------|
| Month/Year | 20 mg/L | 4.2 lb/d | 4 mg/L | 4 mg/L | 20 mg/L | 4.2 lb/d | 65 mg/L | 0.025 MGD |
| September 2009 | c | c | c | c | c | c | c | 0.029 |
| October 2009 | c | c | c | c | c | c | c | 0.026 |
| December 2009 | 33.4 | 9.97 | c | 3.1 | 25.6 | 6.94 | c | 0.029 |
| January 2010 | c | 4.38 | c | 3.1 | c | 4.63 | c | 0.03 |
| March 2010 | c | c | c | c | c | c | c | 0.027 |
| April 2010 | 33.67 | c | c | c | 79 | 5.71 | 88 | c |
| May 2010 | c | 5.6 | c | c | 78.5 | 22.6 | 148 | c |
| July 2010 | c | 4.27 | c | c | 33.75 | 11.4 | 66 | c |
| August 2010 | 21.8 | c | c | 2.4 | 31 | 6.6 | c | c |
| September 2010 | 26.75 | c | c | 0.44 | 30 | c | c | c |
| October 2010 | 39.67 | 8.05 | c | 0.5 | 37.33 | 8.4 | c | c |
| November 2010 | c | c | c | c | 34 | c | c | c |
| December 2010 | 31.33 | 4.9 | c | 2.5 | 34.67 | 5.3 | c | c |
| January 2011 | c | c | c | c | 20.5 | 7.36 | c | c |
| February 2011 | c | c | c | c | 33.5 | 6.32 | c | c |
| March 2011 | c | c | 4.3 | c | 26.2 | 4.54 | c | c |
| April 2011 | c | c | c | c | 21.75 | c | c | c |
| May 2011 | c | c | c | 3.2 | 30 | 7.19 | c | c |
| June 2011 | c | c | c | c | 27.25 | 4.86 | c | c |

| Name | Abbreviation |
|-----------------------------------|--------------|
| milligram per liter | mg/L |
| million gallons per day | MGD |
| pounds per day | lb/d |
| Total Suspended Solids | TSS |
| Chlorine | Cl |
| Dissolved Oxygen | DO |
| Biochemical Oxygen Demand (5 Day) | BOD5 |
| compliant | c |

Compliance History

Customer/Respondent/Owner-Operator: CN600788590 Avalon Water Supply And Sewer Service Corporation Classification: AVERAGE Rating: 2.92

Regulated Entity: RN101511863 AVALON WATER SUPPLY & SEWER SER CORP Classification: AVERAGE Site Rating: 2.83

ID Number(s): WASTEWATER PERMIT WQ0013981001
WASTEWATER EPA ID TX0020567

Location: 1,100 FT WEST OF SH 55 AND APPROX 1,900 FT SOUTH OF THE INTERSECTION OF SH 34 AND SH 55 IN AVALON, ELLIS COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: August 23, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 23, 2006 to August 23, 2011

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

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

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 03/23/2009 ADMINORDER 2008-1716-MWD-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Pro Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
 Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
 Rqmt Pro Sludge Reporting Requirements PERMIT
 Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

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

| | | |
|---|------------|----------|
| 1 | 09/01/2006 | (520654) |
| 2 | 09/21/2006 | (520655) |
| 3 | 03/08/2007 | (619867) |
| 4 | 03/22/2007 | (619868) |
| 5 | 04/18/2007 | (619869) |
| 6 | 07/12/2007 | (619870) |

| | | |
|----|------------|----------|
| 7 | 07/12/2007 | (619871) |
| 8 | 07/27/2007 | (619872) |
| 9 | 09/13/2007 | (619873) |
| 10 | 10/09/2007 | (619874) |
| 11 | 10/12/2006 | (619875) |
| 12 | 11/10/2006 | (619876) |
| 13 | 12/27/2006 | (619877) |
| 14 | 01/22/2007 | (619878) |
| 15 | 05/30/2008 | (654927) |
| 16 | 02/06/2008 | (672347) |
| 17 | 02/06/2008 | (672348) |
| 18 | 02/06/2008 | (672349) |
| 19 | 02/06/2008 | (672350) |
| 20 | 12/09/2008 | (687065) |
| 21 | 02/28/2008 | (690262) |
| 22 | 03/20/2008 | (690263) |
| 23 | 05/02/2008 | (690264) |
| 24 | 05/30/2008 | (690265) |
| 25 | 10/20/2008 | (702921) |
| 26 | 06/25/2008 | (711090) |
| 27 | 07/21/2008 | (711091) |
| 28 | 10/30/2008 | (711092) |
| 29 | 09/26/2008 | (711093) |
| 30 | 10/20/2008 | (727742) |
| 31 | 11/17/2008 | (727743) |
| 32 | 12/19/2008 | (727744) |
| 33 | 02/24/2009 | (750585) |
| 34 | 01/26/2009 | (750586) |
| 35 | 03/25/2009 | (768570) |
| 36 | 04/20/2009 | (768571) |
| 37 | 05/20/2009 | (768572) |
| 38 | 02/22/2010 | (805508) |
| 39 | 06/19/2009 | (805509) |
| 40 | 07/20/2009 | (805510) |
| 41 | 08/17/2009 | (805511) |
| 42 | 09/22/2009 | (805512) |
| 43 | 10/19/2009 | (805513) |
| 44 | 11/23/2009 | (805514) |
| 45 | 12/18/2009 | (805515) |
| 46 | 01/22/2010 | (805516) |
| 47 | 06/28/2010 | (827938) |
| 48 | 03/29/2010 | (831181) |
| 49 | 04/26/2010 | (831182) |
| 50 | 05/20/2010 | (831183) |
| 51 | 06/24/2010 | (846358) |
| 52 | 09/29/2010 | (866936) |

53 08/23/2010 (866937)
 54 09/23/2010 (874004)
 55 10/27/2010 (881607)
 56 12/31/2010 (885303)
 57 11/29/2010 (888111)
 58 01/04/2011 (902400)
 59 01/31/2011 (902401)
 60 03/04/2011 (916439)
 61 03/31/2011 (916440)
 62 05/02/2011 (938120)
 63 05/24/2011 (938121)
 64 08/17/2011 (943386)
 65 06/27/2011 (945494)

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

Date: 01/31/2007 (619867) CN600788590
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (619870) CN600788590
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (619871) CN600788590
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (619872) CN600788590
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (619873) CN600788590
 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: 10/31/2007 (672348) CN600788590
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007 (672349) CN600788590
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

| | | | | | |
|--------------|--|----------|-------------|-----------------|----------|
| Date: | 12/31/2007 | (672350) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date: | 01/31/2008 | (690262) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date: | 02/29/2008 | (690263) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date: | 03/31/2008 | (690264) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date: | 04/30/2008 | (690265) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date: | 05/30/2008 | (654927) | CN600788590 | | |
| Self Report? | NO | | | Classification: | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to comply with the permitted effluent flow limit of 0.025 MGD. | | | | |
| Self Report? | NO | | | Classification: | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter D 305.65 | | | | |
| Description: | Failure to submit the permit renewal to the TCEQ Permitting Section within 180 days of the expiration of the permit. The current permit expires on December 1, 2006. | | | | |
| Self Report? | NO | | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.126(a) | | | | |
| Description: | Failure to take action to comply with the 75/90 rule requirements for flow. | | | | |
| Self Report? | NO | | | Classification: | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to comply with the self-monitored effluent limitations. | | | | |
| Self Report? | NO | | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.4 | | | | |
| Description: | Failure to perform sampling and analysis on the parameters specified in the permit. | | | | |
| Date: | 05/31/2008 | (711090) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date: | 01/31/2009 | (750585) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |

| | | | | | |
|--------------|---|----------|-------------|-----------------|----------|
| Date | 09/30/2009 | (805513) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| | | | | | |
| Date | 10/31/2009 | (805514) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| | | | | | |
| Date | 12/31/2009 | (805516) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| | | | | | |
| Date | 01/31/2010 | (805508) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| | | | | | |
| Date | 03/31/2010 | (831182) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| | | | | | |
| Date | 04/30/2010 | (831183) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| | | | | | |
| Date | 05/31/2010 | (846358) | CN600788590 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| | | | | | |
| Date | 06/22/2010 | (827938) | CN600788590 | | |
| Self Report? | NO | | | Classification: | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to comply with the permitted effluent flow limit of 0.025 MGD. | | | | |
| Self Report? | NO | | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.126(a) | | | | |
| Description: | Failure to take action to comply with the 75/90 rule requirements for flow. | | | | |
| Self Report? | NO | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2) | | | | |

Description: Failure to prevent an unauthorized discharge of wastewater from the treatment plant.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0013981-001 PERMIT

Description: Failure to comply with the TSS grab effluent permit limit of 65 mg/L.

Self Report? NO Classification: Moderate

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

Description: Failure to comply with effluent flow limits.

Self Report? NO Classification: Moderate

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

Description: Failure to comply with the effluent permit limits for BOD5, TSS, and DO.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0013981-001 PERMIT

Description: Failure to maintain rotor in oxidation ditch.

Date 07/31/2010 (866937) CN600788590

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2010 (874004) CN600788590

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2010 (881607) CN600788590

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 (888111) CN600788590

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 (902400) CN600788590

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2010 (902401) CN600788590

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 01/31/2011 (916439) CN600788590

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

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|--------------|--|----------|-------------|--------------------------|
| Date | 02/28/2011 | (916440) | CN600788590 | |
| Self Report? | YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 03/31/2011 | (938120) | CN600788590 | |
| Self Report? | YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 04/30/2011 | (938121) | CN600788590 | |
| Self Report? | YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 05/31/2011 | (945494) | CN600788590 | |
| Self Report? | YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | |
| Date | 06/30/2011 | | CN600788590 | |
| Self Report? | YES | | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



| | | |
|---------------------------|---|-----------------------|
| IN THE MATTER OF AN | § | BEFORE THE |
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | |
| AVALON WATER SUPPLY AND | § | TEXAS COMMISSION ON |
| SEWER SERVICE CORPORATION | § | |
| RN101511863 | § | ENVIRONMENTAL QUALITY |

AGREED ORDER
DOCKET NO. 2011-1488-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Avalon Water Supply and Sewer Service Corporation ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately 1,100 feet west of State Highway ("SH") 55 and approximately 1,900 feet south of the intersection of SH 34 and SH 55 in Avalon, Ellis 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. During an investigation on July 6, 2011, TCEQ staff documented that the Respondent did not comply with permitted effluent limits as shown in the table below:

| EFFLUENT PARAMETER | | | | | | | | |
|---------------------------|--------------------------------------|--|---------------------------|------------------|-------------------------|---------------------------|-----------------------|-----------|
| Permit Limit | | | | | | | | |
| | BOD ₅ Daily Average Conc. | BOD ₅ Daily Average Loading | Cl Residual Maximum Conc. | DO Minimum Conc. | TSS Daily Average Conc. | TSS Daily Average Loading | TSS Single Grab Conc. | Flow |
| Month/Year | 20 mg/L | 4.2 lb/d | 4 mg/L | 4 mg/L | 20 mg/L | 4.2 lb/d | 65 mg/L | 0.025 MGD |
| September 2009 | c | c | c | c | c | c | c | 0.029 |
| October 2009 | c | c | c | c | c | c | c | 0.026 |
| December 2009 | 33.4 | 9.97 | c | 3.1 | 25.6 | 6.94 | c | 0.029 |
| January 2010 | c | 4.38 | c | 3.1 | c | 4.63 | c | 0.03 |
| March 2010 | c | c | c | c | c | c | c | 0.027 |
| April 2010 | 33.67 | c | c | c | 79 | 5.71 | 88 | c |
| May 2010 | c | 5.6 | c | c | 78.5 | 22.6 | 148 | c |
| July 2010 | c | 4.27 | c | c | 33.75 | 11.4 | 66 | c |
| August 2010 | 21.8 | c | c | 2.4 | 31 | 6.6 | c | c |
| September 2010 | 26.75 | c | c | 0.44 | 30 | c | c | c |
| October 2010 | 39.67 | 8.05 | c | 0.5 | 37-33 | 8.4 | c | c |
| November 2010 | c | c | c | c | 34 | c | c | c |
| December 2010 | 31.33 | 4.9 | c | 2.5 | 34.67 | 5.3 | c | c |
| January 2011 | c | c | c | c | 20.5 | 7.36 | c | c |
| February 2011 | c | c | c | c | 33.5 | 6.32 | c | c |
| March 2011 | c | c | 4.3 | c | 26.2 | 4.54 | c | c |
| April 2011 | c | c | c | c | 21.75 | c | c | c |
| May 2011 | c | c | c | 3.2 | 30 | 7.19 | c | c |
| June 2011 | c | c | c | c | 27.25 | 4.86 | c | c |

lb/d = pounds per day mg/L = milligrams per liter MGD = million gallons per day
c = compliant TSS = total suspended solids Cl = chlorine DO = dissolved oxygen
BOD₅ = biochemical oxygen demand (5 day) Conc. = concentration

4. During an investigation on July 6, 2011, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the lift station is not provided with an adequate audio-

visual system as the system is inside an enclosed structure and there is no emergency phone number provided to contact the operator in case of an emergency.

5. During an investigation on July 6, 2011, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the rotor at the racetrack/equalization basin was not functional and there were excessive floating and settled solids throughout the basin and the inside wall was cracked.
6. The Respondent received notice of the violations on August 25, 2011.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By September 8, 2011, the Respondent provided an adequate audio-visual system at the lift station;
 - b. By November 15, 2011:
 - i. Replaced the rotor at the racetrack/equalization basin with underwater nozzles by an external air pump delivering approximately 75 cubic feet per minute;
 - ii. Repaired the inside cracked wall of the racetrack/equalization basin; and
 - iii. Removed all solids from the racetrack/equalization basin and placed them on the north and east sides of the east lagoon for future processing.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and Agreed Order Docket No. 2008-1716-MWD-E, Ordering Provision No. 2.b.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0013981001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1).

4. As evidenced by Findings of Fact No. 5, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0013981001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Sixty-Six Thousand Two Hundred Seventy-Five Dollars (\$66,275) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty. Therefore, Sixty-Six Thousand Two Hundred Seventy-Five Dollars (\$66,275) of the penalty 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Sixty-Six Thousand Two Hundred Seventy-Five Dollars (\$66,275) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Avalon Water Supply and Sewer Service Corporation, Docket No. 2011-1488-MWD-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, properly process and dispose of all the solids that were removed from the racetrack/equalization basin on November 15, 2011; and
 - b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013981001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations and with Ordering Provision Nos. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela J. J. J.
For the Executive Director

9/21/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Avalon Water Supply and Sewer Service Corporation. I am authorized to agree to the attached Agreed Order on behalf of Avalon Water Supply and Sewer Service Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Avalon Water Supply and Sewer Service Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

David C. Waishes
Signature

7/16/2012
Date

DAVID C. WAISHES
Name (Printed or typed)
Authorized Representative of
Avalon Water Supply and Sewer Service Corporation

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.