

Executive Summary – Enforcement Matter – Case No. 43909
Aus-Tex Parts & Services, Ltd.
RN102314218
Docket No. 2012-0729-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Railyard Plant, located approximately 2.6 miles northwest of the intersection of State Highway 21 and County Road 127, Hays County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 21, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,750

Amount Deferred for Expedited Settlement: \$2,750

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$11,000

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 2011

**Executive Summary – Enforcement Matter – Case No. 43909
Aus-Tex Parts & Services, Ltd.
RN102314218
Docket No. 2012-0729-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 1, 2012
Date(s) of NOE(s): March 7, 2012

Violation Information

1. Failed to comply with permitted effluent limits for total suspended solids, 5-day biochemical oxygen demand, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0014060001, Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011 by September 1, 2011 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014060001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The annual sludge report for the monitoring period ending July 31, 2011, was received by the TCEQ Austin Regional Office on December 8, 2011.

Technical Requirements:

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014060001, 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.

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

Executive Summary – Enforcement Matter – Case No. 43909

Aus-Tex Parts & Services, Ltd.

RN102314218

Docket No. 2012-0729-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephen Thompson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2558; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: David Buchuner, Partner, Aus-Tex Parts & Services, Ltd., 17325 Camino Real, Dale, Texas 78616

John R. Mosley, Registered Agent, Aus-Tex Parts & Services, Ltd., 17325 Camino Real, Dale, Texas 78616

Respondent's Attorney: Andrew Barrett, Attorney, Barrett & Associates, PLLC, 1772 State Road, Cuyahoga Falls, Ohio 44223



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	12-Mar-2012	Screening	3-Apr-2012	EPA Due	
	PCW	9-Jul-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aus-Tex Parts & Services, Ltd.
Reg. Ent. Ref. No.	RN102314218
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations <input type="text" value="2"/> Order Type <input type="text" value="1660"/> Government/Non-Profit <input type="text" value="No"/> Enf. Coordinator <input type="text" value="Stephen Thompson"/> EC's Team <input type="text" value="Enforcement Team 3"/>
Enf./Case ID No.	43909	
Docket No.	2012-0729-MWD-E	
Media Program(s)	Water Quality	
Multi-Media		
Admin. Penalty \$	Limit Minimum <input type="text" value="\$0"/> Maximum <input type="text" value="\$25,000"/>	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	<input type="text" value="\$2,750"/>
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	<input type="text" value="100.0%"/> Enhancement	Subtotals 2, 3, & 7 <input type="text" value="\$2,750"/>

Notes: Enhancement for 20 months of self-reported effluent violations, two NOVs with same/similar violations, one agreed order with denial of liability and one agreed order without denial of liability.

Culpability	<input type="text" value="No"/> <input type="text" value="0.0%"/> Enhancement	Subtotal 4	<input type="text" value="\$0"/>
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	<input type="text" value="\$0"/>
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Economic Benefit	<input type="text" value="0.0%"/> Enhancement*	Subtotal 6	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$0"/>	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	<input type="text" value="\$50"/>		

SUM OF SUBTOTALS 1-7	Final Subtotal	<input type="text" value="\$5,500"/>
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OTHER FACTORS AS JUSTICE MAY REQUIRE	<input type="text" value="-4.0%"/>	Adjustment	<input type="text" value="-\$220"/>
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Notes: Reduction to prevent double-enhancement for violations that were self-reported.

Final Penalty Amount	<input type="text" value="\$5,280"/>
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	<input type="text" value="\$5,280"/>
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DEFERRAL	<input type="text" value="20.0%"/> Reduction	Adjustment	<input type="text" value="-\$1,056"/>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	<input type="text" value="\$4,224"/>
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Screening Date 3-Apr-2012

Docket No. 2012-0729-MWD-E

PCW

Respondent Aus-Tex Parts & Services, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 43909

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

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>)	22	110%
	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	1	25%
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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 155%

>> 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 20 months of self-reported effluent violations, two NOVs with same/similar violations, one agreed order with denial of liability and one agreed order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 155%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 3-Apr-2012
Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 43909
Reg. Ent. Reference No. RN102314218
Media [Statute] Water Quality
Enf. Coordinator Stephen Thompson
Violation Number 1

Docket No. 2012-0729-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0014060001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on March 1, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	5.0%
Potential				

>>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. In addition, total suspended solids was considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended for the the quarters containing the months of September through December 2011.

Good Faith Efforts to Comply

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

Violation Final Penalty Total \$4,800

This violation Final Assessed Penalty (adjusted for limits) \$4,800

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 43909
Reg. Ent. Reference No. RN102314218
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs for this violation are associated with violation no. 1 on PCW revision 2.

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 3-Apr-2012

Docket No. 2012-0729-MWD-E

PCW

Respondent Aus-Tex Parts & Services, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 43909

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014060001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011 by September 30, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

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

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

215 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$480

This violation Final Assessed Penalty (adjusted for limits) \$480

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 43909
Reg. Ent. Reference No. RN102314218
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)	\$50	30-Sep-2011	8-Dec-2011	0.19	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit the annual sludge report for the monitoring period ending July 31, 2011. Date required is the date the report was due. 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

\$50

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Mar-2012	Screening	3-Apr-2012	EPA Due	
	PCW	6-Jul-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	Aus-Tex Parts & Services, Ltd.		
Reg. Ent. Ref. No.	RN102314218		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	43909	No. of Violations	2
Docket No.	2012-0729-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	155.0% Enhancement	Subtotals 2, 3, & 7	\$5,425
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Notes: Enhancement for 20 months of self-reported effluent violations, two NOVs with same/similar violations, one agreed order with denial of liability and one agreed order without denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,291
 Approx. Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,925
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-5.1%	Adjustment	-\$455
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction to prevent double-enhancement for violations that were self-reported and to ensure that self-reported violations do not overly impact the penalty.

Final Penalty Amount	\$8,470
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,470
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,694
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,776
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Screening Date 3-Apr-2012

Docket No. 2012-0729-MWD-E

PCW

Respondent Aus-Tex Parts & Services, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 43909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

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>)	22	110%
	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	1	25%
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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 155%

>> 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 20 months of self-reported effluent violations, two NOVs with same/similar violations, one agreed order with denial of liability and one agreed order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 155%

Screening Date 3-Apr-2012

Docket No. 2012-0729-MWD-E

PCW

Respondent Aus-Tex Parts & Services, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 43909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014060001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on March 1, 2012, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. In addition, total suspended solids and Escherichia coli were considered. As a result of these discharges, human health or the environment has been exposed to a significant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

31 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 August 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 \$1,291

Violation Final Penalty Total \$6,050

This violation Final Assessed Penalty (adjusted for limits) \$6,050

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 43909
Reg. Ent. Reference No. RN102314218
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	28-Feb-2011	1-Jan-2013	1.84	\$61	\$1,229	\$1,291
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

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,291

Screening Date 3-Apr-2012

Docket No. 2012-0729-MWD-E

PCW

Respondent Aus-Tex Parts & Services, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 43909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0014060001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on March 1, 2012, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

28 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the quarter containing the month of February 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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,420

This violation Final Assessed Penalty (adjusted for limits) \$2,420

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 43909
Reg. Ent. Reference No. RN102314218
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

The delayed costs for this violation are associated with 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

Aus-Tex Parts & Services, Ltd.
 TPDES Permit No. WQ0014060001
 Docket No. 2012-0729-MWD-E

	TSS Daily Avg. Conc.	TSS Single Grab Conc.	BOD ₅ Daily Avg. Conc.	BOD ₅ Single Grab Conc.	BOD ₅ Daily Avg. Loading	<i>E. coli</i> Single Grab Conc.
	Limit = 15 mg/L	Limit = 60 mg/L	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 6.2 lbs/day	Limit = 394 CFU/100 mL
February 2011	c	c	11.25	c	c	c
August 2011	33.8	72	79.2	120	14.737	2419
September 2011	33.25	c	66.5	101	9.73	c
October 2011	42.25	104	68.25	78	10.611	c
November 2011	38.8	c	31	38	c	c
December 2011	27.5	c	28	c	c	c

TSS = total suspended solids
 BOD₅ = five-day biochemical oxygen demand
 lbs/day = pounds per day
 CFU = colony forming units

Conc. = concentration
 mg/L = milligrams per liter
 mL = milliliters

Avg. = average
 c = compliant
E. coli = *Escherichia coli*

Compliance History Report

Customer/Respondent/Owner-Operator: CN601121122 Aus-Tex Parts & Services, Ltd. Classification: AVERAGE Rating: 4.20
Regulated Entity: RN102314218 RAILYARD PLANT Classification: AVERAGE Site Rating: 5.39
ID Number(s): WASTEWATER PERMIT WQ0014060001
WASTEWATER EPA ID TX0117676
Location: APPROX 2.6 MI NW OF THE INTX OF SH 21 AND CR 127 HAYS COUNTY, TX
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: April 03, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 03, 2007 to April 03, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Stephen Thompson Phone: (512) 239-2558

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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: 04/28/2008 ADMINORDER 2007-1710-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permitted effluent limits.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: Self-reporting Requirements PERMIT
Description: Failure to submit sludge discharge monitoring report at the intervals specified in the permit.

Effective Date: 06/20/2011 ADMINORDER 2010-1683-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failed to comply with the permitted effluent limits.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.1
Rqmt Prov: Effluent Reporting Requirements PERMIT
Description: Failed to submit a complete DMR
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: Sludge Reporting Requirements PERMIT
Description: failed to submit the annual sludge report for the monitoring period ending July 31, 2009
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(A)
30 TAC Chapter 319, SubChapter A 319.4
Rqmt Prov: Monitoring and Reporting Req. 3.a. PERMIT

Description: Failure to collect and analyze samples for required parameter at the minimum frequency specified in the permit.

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	09/17/2007	(593803)
2	04/17/2007	(630807)
3	04/17/2007	(630808)
4	06/11/2007	(630809)
5	07/17/2007	(630810)
6	08/01/2007	(630811)
7	10/26/2007	(630812)
8	10/26/2007	(630813)
9	10/08/2007	(630815)
10	10/26/2007	(630817)
11	11/20/2007	(630819)
12	12/19/2007	(630821)
13	01/18/2008	(630823)
14	02/20/2008	(677136)
15	03/20/2008	(677137)
16	04/21/2008	(677138)
17	05/20/2008	(695780)
18	06/20/2008	(695781)
19	07/18/2008	(695782)
20	10/23/2008	(717352)
21	09/19/2008	(717353)
22	10/20/2008	(717354)
23	11/20/2008	(732718)
24	01/16/2009	(732719)
25	05/22/2009	(744025)
26	06/11/2009	(745258)
27	02/26/2009	(755963)
28	03/20/2009	(755964)
29	04/20/2009	(755965)
30	12/18/2008	(755966)
31	10/19/2009	(776641)
32	12/21/2009	(818999)
33	08/31/2010	(830219)
34	10/01/2010	(863537)
35	08/19/2010	(868827)
36	09/20/2010	(875697)
37	10/20/2010	(883252)
38	11/18/2010	(889660)
39	12/20/2010	(898028)
40	01/18/2011	(903931)
41	03/11/2011	(905181)
42	02/17/2011	(910819)

43 03/18/2011 (918082)
 44 07/19/2010 (918083)
 45 10/21/2010 (930293)
 46 03/18/2010 (930294)
 47 04/16/2010 (930295)
 48 04/20/2011 (930296)
 49 05/19/2010 (930297)
 50 06/18/2010 (930298)
 51 10/21/2010 (930299)
 52 10/21/2010 (930300)
 53 10/21/2010 (930301)
 54 10/21/2010 (930302)
 55 10/21/2010 (930303)
 56 10/21/2010 (930304)
 57 05/20/2011 (939787)
 58 06/17/2011 (947203)
 59 10/26/2011 (967130)
 60 10/26/2011 (967131)
 61 09/19/2011 (967132)
 62 10/19/2011 (973097)
 63 11/18/2011 (979221)
 64 12/21/2011 (986066)
 65 03/07/2012 (989777)
 66 01/20/2012 (992424)

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

Date: 04/30/2007 (630809) CN601121122
 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 (630810) CN601121122
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (630817) CN601121122
 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 (630819) CN601121122
 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 (677136) CN601121122
 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 (695780) CN601121122
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 (755963) CN601121122
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: 05/26/2009 (744025) CN601121122
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.3(e)(4)(D)
Description: Failure to provide required alarm systems for lift stations

Self Report? NO Classification: Moderate

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

Description: Failure to meet effluent limits
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
Description: Failure to maintain adequate sampling records for chlorine analysis.

Self Report? NO Classification: Moderate

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

Description: Failure to provide noncompliance notification for exceeding permit effluent limits by greater than 40%.

Self Report? NO Classification: Moderate

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

Description: Failure to have an operator with required level of license at the facility a minimum of five days per week.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirement #4 PERMIT

Description: Failure to provide adequate safeguards to prevent the discharge of untreated wastes or inadequately treated wastes during an electrical power failure.

Date: 06/30/2009 (930299) CN601121122
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: 07/31/2009 (930300) CN601121122
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 (930304) CN601121122
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 (930293) CN601121122
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 (930294) CN601121122
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 (930295) CN601121122
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 (930297) CN601121122
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: 08/27/2010 (830219) CN601121122
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014060-001 PERMIT
Description: The facility failed to meet its permitted effluent limits for BOD and TSS on several occasions.

Date: 02/28/2011 (918082) CN601121122
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: 08/31/2011 (967132) CN601121122
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: 09/30/2011 (973097) CN601121122
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: 10/31/2011 (979221) CN601121122
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: 11/30/2011 (986066) CN601121122
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: 12/31/2011 (992424) CN601121122
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
ENFORCEMENT ACTION
CONCERNING AUS-TEX PARTS &
SERVICES, LTD.
RN102314218**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2012-0729-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aus-Tex Parts & Services, Ltd. ("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, represented by Andrew Barrett of the law firm Barrett & Associates, PLLC, together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility approximately 2.6 miles northwest of the intersection of State Highway 21 and County Road 127 in Hays 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 Executive Director 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 12, 2012.
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 Thirteen Thousand Seven Hundred Fifty Dollars (\$13,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Dollars (\$11,000) of the administrative penalty and Two Thousand Seven Hundred Fifty Dollars (\$2,750) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the annual sludge report for the monitoring period ending July 31, 2011, was received by the TCEQ Austin Regional Office on December 8, 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014060001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 1, 2012, and as shown in the table below:

EFFLUENT VIOLATION TABLE						
	TSS Daily Avg. Conc.	TSS Single Grab Conc.	BOD5 Daily Avg. Conc.	BOD5 Single Grab Conc.	BOD5 Daily Avg. Loading	<i>E. coli</i> Single Grab Conc.
	Limit = 15 mg/L	Limit = 60 mg/L	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 6.2 lbs/day	Limit = 394 CFU/100 mL
February 2011	c	c	11.25	c	c	c
August 2011	33.8	72	79.2	120	14.737	2419
September 2011	33.25	c	66.5	101	9.73	c
October 2011	42.25	104	68.25	78	10.611	c
November 2011	38.8	c	31	38	c	c
December 2011	27.5	c	28	c	c	c

TSS = total suspended solids
BOD5 = five-day biochemical oxygen demand
lbs/day = pounds per day
CFU = colony forming units

Conc. = concentration
mg/L = milligrams per liter
mL = milliliters

Avg. = average
c = compliant
E. coli = *Escherichia coli*

- Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011 by September 1, 2011, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014060001, Sludge Provisions, as documented during a record review conducted on March 1, 2012.

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: Aus-Tex Parts & Services, Ltd., Docket No. 2012-0729-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

- It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014060001, including specific corrective actions that were

implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
Austin Regional Office, R-11
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/23/12

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

7/18/12

Date

David Buchner

Name (Printed or typed)
Authorized Representative of
Aus-Tex Parts & Services, Ltd.

Partner

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.