

Executive Summary – Enforcement Matter – Case No. 41506

**J&S Water Company, L.L.C.
RN102361458 and RN102361862
Docket No. 2011-0599-MWD-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Maple Leaf Gardens, located approximately 800 feet north of Zaka Road, west of Windfern Road at the southeast corner of Maple Leaf Gardens, Harris County

Five Oaks Facility, located approximately 3,300 feet west from the bridge where Rothwood Road crosses Spring Creek, Harris County

Type of Operation:

Wastewater treatment facilities

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 6, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,434

Amount Deferred for Expedited Settlement: \$5,486

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$633

Total Due to General Revenue: \$21,315

Payment Plan: 35 payments of \$609 each

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. 41506
J&S Water Company, L.L.C.
RN102361458 and RN102361862
Docket No. 2011-0599-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 7, 2011 and April 15, 2011

Date(s) of NOE(s): April 8, 2011 and April 28, 2011

Violation Information

1. Failed to comply with the permitted effluent limits at Facility 1 for total suspended solids, biochemical oxygen demand, and total chlorine residual [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0012342001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

2. Failed to submit noncompliance notification reports for effluent violations which deviate from the permitted effluent limitation by more than 40% for Facility 1. Specifically, noncompliance notification reports were not submitted for deviations of TSS limitations by more than 40% during the months of February and December 2010 [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012342001, Monitoring and Reporting Requirements No. 7.c.].

3. Failed to ensure that Facility 1 and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the investigator documented that the backup lift station pump at the on-site lift station and the odor control system were not operational [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0012342001, Operational Requirements No. 1].

4. Failed to ensure that Facility 1 and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the investigator documented that the chlorine contact chamber contained six inches of settled sludge in a 6.5 feet water depth [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0012342001, Operational Requirements No. 1].

5. Failed to comply with the permitted effluent limits at Facility 2 for total suspended solids and ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012382001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

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RN102361458 and RN102361862
Docket No. 2011-0599-MWD-E

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update the operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of noncompliance notification reports for effluent violations which deviate from the permitted effluent limitation by more than 40%;
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.; and
- c. Within 60 days, implement the following corrective measures at Facility 1:
 - i. Install an operational backup lift station pump for the on-site lift station;
 - ii. Begin maintaining and operating the odor control system in good working order;
 - iii. Remove and properly dispose of sludge from the chlorine contact chamber and implement procedures to ensure that there is no future accumulation of sludge in the chlorine contact chamber; and
- d. Within 75 days, submit certification of compliance with Ordering Provisions c.i. through c.iii.
- e. Within 120 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit Nos. WQ0012342001 and WQ0012382001, including specific corrective actions that were implemented at the Facilities 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. 41506
J&S Water Company, L.L.C.
RN102361458 and RN102361862
Docket No. 2011-0599-MWD-E**

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: Jerry Nowling, Owner, J&S Water Company, L.L.C., P.O. Box 1165,
Highlands, Texas 77562

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	11-Apr-2011	Screening	20-Apr-2011	EPA Due	
	PCW	26-Apr-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	J&S Water Company, L.L.C. (Facility 1)		
Reg. Ent. Ref. No.	RN102361458		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41506	No. of Violations	5
Docket No.	2011-0599-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
		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	\$16,000
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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	65.0% Enhancement	Subtotals 2, 3, & 7	\$10,400
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Notes: Enhancement for eleven months of self-reported effluent violations and two NOVs for the same/similar violations within the last five years.

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	\$2,107
Approx. Cost of Compliance	\$21,790

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$26,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-6.1%	Adjustment	-\$1,606
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation no. 3 and a reduction so that noncompliance notification violations do not overly impact the penalty amount.

Final Penalty Amount	\$24,794
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$24,794
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,958
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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	\$19,836
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Screening Date 20-Apr-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361458

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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>)	13	65%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 65%

>> **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 eleven months of self-reported effluent violations and two NOVs for the same/similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 20-Apr-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361458

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012342001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limits, as shown in Table No. 1 attached.

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 ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") was also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

89 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended for the quarters containing the months of February 2010, November 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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,190

Violation Final Penalty Total \$3,099

This violation Final Assessed Penalty (adjusted for limits) \$3,099

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Facility 1)
Case ID No. 41506
Reg. Ent. Reference No. RN102361458
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)	\$10,000	28-Feb-2010	16-Jul-2012	2.38	\$1,190	n/a	\$1,190

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the first date of non-compliance 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

\$10,000

TOTAL

\$1,190

Screening Date 20-Apr-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361458

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012342001, Effluent Limitations and Monitoring Requirements No. 2

Violation Description Failed to comply with the permitted effluent limits, as documented in an investigation conducted on February 7, 2011 and shown in Table No. 1 attached.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes 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 as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 28

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

Violation Base Penalty \$2,500

One monthly event is recommended for the grab sample taken on February 7, 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,874

This violation Final Assessed Penalty (adjusted for limits) \$3,874

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Facility 1)
Case ID No. 41506
Reg. Ent. Reference No. RN102361458
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 20-Apr-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361458

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012342001, Monitoring and Reporting Requirements No. 7.c.

Violation Description

Failed to submit noncompliance notification reports for effluent violations which deviate from the permitted effluent limitation by more than 40%. Specifically, noncompliance notification reports were not submitted for deviations of TSS limitations by more than 40% during the months of February and December 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

411 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,000

Two single events are recommended (one for each noncompliance report).

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$58

Violation Final Penalty Total \$3,099

This violation Final Assessed Penalty (adjusted for limits) \$3,099

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Facility 1)
Case ID No. 41506
Reg. Ent. Reference No. RN102361458
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	\$250	5-Mar-2010	16-May-2011	1.20	\$15	n/a	\$15
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 update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of noncompliance notification reports for effluent violations which deviate from the permitted effluent limitation by more than 40%. Date required is the date the first report was due 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)	\$40	5-Mar-2010	4-Jan-2011	1.75	\$4	\$40	\$44

Notes for AVOIDED costs

Estimated cost to submit the noncompliance notification reports for the months of February and December 2010. Date required is the date the first noncompliance notification report was due and the final date is the date the last noncompliance notification report was due.

Approx. Cost of Compliance

\$290

TOTAL

\$58

Screening Date 20-Apr-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361458

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0012342001, Operational Requirements No. 1

Violation Description Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the investigator documented that the backup lift station pump at the on-site lift station and the odor control system were not operational.

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 this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

72 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events (one quarterly event per item) are recommended from the investigation date, February 7, 2011, to the date of screening, April 20, 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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$763

Violation Final Penalty Total \$3,099

This violation Final Assessed Penalty (adjusted for limits) \$3,099

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Facility 1)
Case ID No. 41506
Reg. Ent. Reference No. RN102361458
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)	\$5,000	7-Feb-2011	16-May-2012	1.27	\$21	\$424	\$445
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)	\$5,000	7-Feb-2011	16-May-2012	1.27	\$318	n/a	\$318

Notes for DELAYED costs

Estimated cost to install an operational backup lift station pump at the Facility. Date required is the date of the investigation and the final date is the expected date of compliance.
 Estimated cost to begin maintaining and operating the odor control system at the Facility in good working order. Date required is the date of the investigation 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

\$10,000

TOTAL

\$763

Screening Date 20-Apr-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361458

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0012342001, Operational Requirements No. 1

Violation Description

Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the investigator documented that the chlorine contact chamber contained six inches of settled sludge in a 6.5 feet water depth.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

72 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three monthly events are recommended from the investigation date, February 7, 2011, to the date of screening, April 20, 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$95

Violation Final Penalty Total \$11,622

This violation Final Assessed Penalty (adjusted for limits) \$11,622

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Facility 1)
Case ID No. 41506
Req. Ent. Reference No. RN102361458
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
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)	\$1,500	7-Feb-2011	16-May-2012	1.27	\$95	n/a	\$95

Notes for DELAYED costs

Estimated cost to remove and properly dispose of sludge from the chlorine contact chamber and implement procedures to ensure that there is no future accumulation of sludge in the chlorine contact chamber. Date required is the date of the investigation 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

\$1,500

TOTAL

\$95



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-May-2011	Screening	9-May-2011	EPA Due	
	PCW	13-May-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	J&S Water Company, L.L.C. (Facility 2)		
Reg. Ent. Ref. No.	RN102361862		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41506	No. of Violations	1
Docket No.	2011-0599-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
		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 six months of self-reported effluent violations and one NOV for the dissimilar violations within the last five years.

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

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 9-May-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361862

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 32%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for six months of self-reported effluent violations and one NOV for the dissimilar violations within the last five years.

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

Screening Date 9-May-2011

Docket No. 2011-0599-MWD-E

PCW

Respondent J&S Water Company, L.L.C. (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 41506

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102361862

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012382001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limits, as shown in Table No. 2 attached.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

124 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$938

Violation Final Penalty Total \$2,640

This violation Final Assessed Penalty (adjusted for limits) \$2,640

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Facility 2)
Case ID No. 41506
Reg. Ent. Reference No. RN102361862
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)	\$10,000	31-Aug-2010	16-Jul-2012	1.88	\$938	n/a	\$938

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the first date of non-compliance 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

\$10,000

TOTAL

\$938

Effluent Limit Violation Table No. 1

Respondent J&S Water Company, L.L.C.
ID Number(s) TPDES Permit No. WQ0012342001; Case No. 41506
Docket Number 2011-0599-MWD-E
Enf. Coordinator Samuel Short

Corresponds to Violation Number: 1 and 2

EFFLUENT PARAMETER
Permit Limit

	TSS Daily Average Conc.	TSS Single Grab Con.	BOD Daily Average Conc.	Total Chlorine Residual Max. Conc.				
Month/Year	15 mg/L	60 mg/L	10 mg/L	4 mg/L				
February 2010	41.9	77.3	c	c				
November 2010	15.63	c	c	c				
December 2010	26.2	c	12.12	c				
*February 2011	c	c	c	7.6				

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
biochemical oxygen demand	BOD
maximum concentration	Max. Conc.
compliant	c
grab sample	*

Effluent Limit Violation Table No. 2

Respondent J&S Water Company, L.L.C.
ID Number(s) TPDES Permit No. WQ0012382001; Case No. 41506
Docket Number 2011-0599-MWD-E
Enf. Coordinator Samuel Short

Corresponds to Violation Number:

1

EFFLUENT PARAMETER
Permit Limit

	TSS Daily Average Conc.	Ammonia Nitrogen Daily Average Conc.	Ammonia Nitrogen Single Grab Conc.					
Month/Year	15 mg/L	3 mg/L	15 mg/L					
August 2010	c	5.4	16.6					
October 2010	c	3.27	c					
December 2010	c	4.9	c					
January 2011	18.03	c	c					

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids concentration	TSS Conc.
compliant	c

19	08/22/2007	(624464)
20	09/24/2007	(624465)
21	11/26/2007	(624466)
22	03/10/2008	(675374)
23	01/17/2008	(675375)
24	01/21/2008	(675376)
25	06/19/2008	(693669)
26	04/23/2008	(693670)
27	06/19/2008	(693671)
28	06/30/2008	(714984)
29	07/21/2008	(714985)
30	08/25/2008	(714986)
31	12/01/2008	(730851)
32	12/08/2008	(730852)
33	12/08/2008	(730853)
34	01/08/2009	(754097)
35	01/26/2009	(754098)
36	09/22/2009	(763257)
37	06/01/2009	(771415)
38	06/01/2009	(771416)
39	01/28/2010	(782537)
40	05/04/2010	(799841)
41	02/16/2010	(814263)
42	02/19/2010	(814264)
43	02/16/2010	(814265)
44	06/26/2009	(814266)
45	07/21/2009	(814267)
46	02/16/2010	(814268)
47	09/23/2009	(814269)
48	10/22/2009	(814270)
49	11/25/2009	(814271)
50	01/22/2010	(814272)
51	01/22/2010	(814273)
52	06/08/2010	(824783)
53	04/19/2010	(834232)
54	05/07/2010	(834233)
55	05/28/2010	(834234)
56	05/31/2010	(861744)
57	08/20/2010	(868144)
58	07/28/2010	(875068)
59	09/23/2010	(875069)
60	10/21/2010	(882676)
61	11/19/2010	(889090)
62	04/07/2011	(894880)
63	12/22/2010	(897466)
64	02/28/2011	(910273)
65	02/07/2011	(910274)

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

Date: 11/30/2007 (675375) CN602975252
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 (693670) CN602975252
 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: 11/30/2008 (754097) CN602975252
 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: 02/28/2009 (814265) CN602975252
 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: 05/31/2009 (814266) CN602975252
 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: 08/31/2009 (814269) CN602975252
 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: 09/22/2009 (763257) CN602975252
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to have the required number of pumps on the on-site lift station.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to provide the required number of operational blowers.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to maintain the chlorine contact chamber.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

TPDES Permit No. WQ0012342001 PERMIT
 Description: Failure to maintain the airtight cover and odor control system on the digester.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)

Description: Failure to maintain the required sludge management records.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TPDES Permit No. WQ0012342001 PERMIT
 Description: Failure to maintain compliance with the daily average effluent limitations.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TPDES Permit No. WQ0012342001 PERMIT
 Description: Failure to submit the noncompliance notification for an effluent violation which deviated from the permitted limit by more than 40%.
 Date: 09/30/2009 (814270) CN602975252
 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 (814264) CN602975252
 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 (834232) CN602975252
 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 07/29/2010 (841813) CN602975252
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of sludge into the receiving stream.
Date 11/30/2010 (897466) CN602975252
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 (910274) CN602975252
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

Compliance History

Customer/Respondent/Owner-Operator:	CN602975252 J&S Water Company, L. L. C.	Classification: AVERAGE	Rating: 0.63
Regulated Entity:	RN102361862 FIVE OAKS FACILITY	Classification: AVERAGE	Site Rating: 0.37
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT EPA ID LICENSE	WQ0012382001 TX0087475 WQ0012382001
Location:	LOCATED APPROXIMATELY 3,300 FEET WEST FROM THE BRIDGE WHERE ROTHWOOD ROAD CROSSES SPRING CREEK IN HARRIS COUNTY, TEXAS		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	May 09, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 09, 2006 to May 09, 2011		

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

Name: Samuel Short Phone: (512) 239-5363

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? Yes
3. If Yes, who is the current owner/operator? OWN J&S Water Company, L. L. C.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN C & P Utilities, Inc.
5. When did the change(s) in owner or operator occur? 02/08/2010 OWN C & P Utilities, Inc.
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

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

1	05/22/2006	(503816)
2	06/12/2006	(503817)
3	07/10/2006	(526183)
4	08/24/2006	(526184)
5	09/12/2006	(526185)
6	02/22/2007	(624706)
7	02/28/2007	(624707)
8	04/23/2007	(624708)
9	05/22/2007	(624709)
10	06/14/2007	(624710)
11	07/23/2007	(624711)
12	11/09/2007	(624712)

13	10/23/2006	(624713)
14	09/24/2007	(624714)
15	11/08/2006	(624715)
16	12/01/2006	(624716)
17	11/26/2007	(624717)
18	12/29/2006	(624718)
19	01/10/2007	(624719)
20	03/10/2008	(675458)
21	01/17/2008	(675459)
22	06/19/2008	(693794)
23	04/23/2008	(693795)
24	06/19/2008	(693796)
25	01/21/2008	(693797)
26	06/30/2008	(715126)
27	07/21/2008	(715127)
28	08/25/2008	(715128)
29	12/01/2008	(730950)
30	12/08/2008	(730951)
31	12/08/2008	(730952)
32	10/02/2009	(748007)
33	01/08/2009	(754190)
34	01/26/2009	(754191)
35	06/01/2009	(771502)
36	06/01/2009	(771503)
37	02/19/2010	(814605)
38	06/26/2009	(814606)
39	07/21/2009	(814607)
40	08/28/2009	(814608)
41	09/23/2009	(814609)
42	10/22/2009	(814610)
43	11/25/2009	(814611)
44	01/22/2010	(814612)
45	01/22/2010	(814613)
46	04/19/2010	(834329)
47	05/07/2010	(834330)
48	05/28/2010	(834331)
49	02/18/2011	(850539)
50	05/31/2010	(861768)
51	09/23/2010	(868175)
52	08/20/2010	(868176)
53	09/23/2010	(875099)
54	10/21/2010	(882711)
55	11/19/2010	(889122)
56	12/22/2010	(897498)
57	02/28/2011	(910302)
58	02/07/2011	(910303)
59	04/29/2011	(913008)

Date: 10/31/2008 (730952) CN602975252
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 03/31/2009 (771502) CN602975252
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 10/02/2009 (748007) CN602975252
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to provide an operable chlorine scale and an operable ventilation fan in the chlorine room.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to provide a back up pump and a secure cover for wet well. At the time of the investigation, the back up lift pump did not have power and the wet well was not secure.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to maintain the tanks and catwalks. At the time of the investigation the tops of the tanks and the catwalks were badly rusted which damages the structural integrity of the plant. The rusted areas were safety hazards and potential sources of spills.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 317 317.3
Description: Failure to secure the plant site. The wastewater treatment plant must be secured with an intruder resistant fence. Fencing was visible on three sides of the plant. The fence on the fourth side was not visible from the plant and there was a large culvert under the fence which would give intruders easy access to the plant site. The plant had been marked (tagged) by intruders who gained access to the plant site.
Date 08/31/2010 (875099) CN602975252
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 (889122) CN602975252
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 (910303) CN602975252
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 (910302) CN602975252
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
J&S WATER COMPANY, L.L.C.
RN102361458 and RN102361862

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0599-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding J&S Water Company, L.L.C. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates wastewater treatment facilities at the following locations (the Facilities);
 - a. Approximately 800 feet north of Zaka Road, west of Windfern Road at the southeast corner of Maple Leaf Gardens in Harris County, Texas ("Facility 1"); and
 - b. Approximately 3,300 feet west from the bridge where Rothwood Road crosses Spring Creek in Harris County, Texas ("Facility 2").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about April 13, 2011 and May 1, 2011.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Seven Thousand Four Hundred Thirty-Four Dollars (\$27,434) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Thirty-Three Dollars (\$633) of the administrative penalty and Five Thousand Four Hundred Eighty-Six Dollars (\$5,486) 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.

The remaining amount of Twenty-One Thousand Three Hundred Fifteen Dollars (\$21,315) of the administrative penalty shall be payable in 35 monthly payments of Six Hundred Nine Dollars (\$609) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director 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.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

- Failed to comply with the permitted effluent limits at Facility 1, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012342001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during an investigation conducted on February 7, 2011 and shown in the table below.

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	TSS Daily Average Conc.	TSS Single Grab Con.	BOD Daily Average Conc.	Total Chlorine Residual Max. Conc.
<i>Month/Year</i>	15 mg/L	60 mg/L	10 mg/L	4 mg/L
February 2010	41.9	77.3	c	c
November 2010	15.63	c	c	c
December 2010	26.2	c	12.12	c
*February 2011	c	c	c	7.6

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
biochemical oxygen demand	BOD
maximum	Max.
concentration	Conc.
compliant	c
grab sample	*

- Failed to submit noncompliance notification reports for effluent violations which deviate from the permitted effluent limitation by more than 40% for Facility 1, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012342001, Monitoring and Reporting Requirements No. 7.c., as documented during an investigation conducted on February 7, 2011. Specifically, noncompliance notification reports were not submitted for deviations of TSS limitations by more than 40% during the months of February and December 2010.
- Failed to ensure that Facility 1 and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0012342001, Operational Requirements No. 1, as documented during an investigation conducted on February 7, 2011. Specifically, the investigator documented that the backup lift station pump at the on-site lift station and the odor control system were not operational.

4. Failed to ensure that Facility 1 and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0012342001, Operational Requirements No. 1, as documented during an investigation conducted on February 7, 2011. Specifically, the investigator documented that the chlorine contact chamber contained six inches of settled sludge in a 6.5 feet water depth.
5. Failed to comply with the permitted effluent limits at Facility 2, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012382001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on April 15, 2011 and shown in the table below.

<i>EFFLUENT PARAMETER</i>			
<i>Permit Limit</i>			
	TSS Daily Average Conc.	Ammonia Nitrogen Daily Average Conc.	Ammonia Nitrogen Single Grab Conc.
<i>Month/Year</i>	15 mg/L	3 mg/L	15 mg/L
August 2010	c	5.4	16.6
October 2010	c	3.27	c
December 2010	c	4.9	c
January 2011	18.03	c	c

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids concentration	TSS Conc.
compliant	c

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: J&S Water Company, L.L.C., Docket No. 2011-0599-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of noncompliance notification reports for effluent violations which deviate from the permitted effluent limitation by more than 40%, in accordance with TPDES Permit No. WQ0012342001, Monitoring and Reporting Requirements No. 7.c.;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., in accordance with Ordering Provision No. 2.f. below;
 - c. Within 60 days after the effective date of this Agreed Order implement the following corrective measures at Facility 1:
 - i. Install an operational backup lift station pump for the on-site lift station;
 - ii. Begin maintaining and operating the odor control system in good working order;
 - iii. Remove and properly dispose of sludge from the chlorine contact chamber and implement procedures to ensure that there is no future accumulation of sludge in the chlorine contact chamber;
 - d. Within 75 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision Nos. 2.c.i. through 2.c.iii. The certification shall be in accordance with Ordering Provision No. 2.f. below;
 - e. Within 120 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit Nos. WQ0012342001 and WQ0012382001, including specific corrective actions that were implemented at the Facilities 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 in accordance with Ordering Provision No. 2.f. below; and
 - f. The written certification of compliance required by Ordering Provisions Nos. 2.b., 2.d., and 2.e. shall include detailed supporting documentation including

photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Sawyer Jr.
For the Executive Director

5/21/12
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.

Jerry Nowling
Signature

Feb 7 2012
Date

Jerry Nowling
Name (Printed or typed)
Authorized Representative of
J&S Water Company, L.L.C.

owner
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.