

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46349
METROPLEX RETAINING WALLS, INC.
RN100800986
Docket No. 2013-0453-IWD-E

Order Type:

Default Order

Media:

Water Quality

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

11016 South Pipeline Road, Euless, Tarrant County

Type of Operation:

concrete production plant

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$2,256.22 (2008-1334-IWD-E)
Past-Due Fees: \$1,500 (20500825)
Other: None
Interested Third-Parties: None

Texas Register Publication Date: November 22, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$3,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$3,000

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 28, 2013 and March 1, 2013
Date(s) of NOV(s): N/A
Date(s) of NOE(s): February 7, 2013

Violation Information

1. Failed to timely submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXG110585, Part IV, Standard Permit Conditions No. 7(f)].
2. Failed to pay General Permit Wastewater fees for TCEQ Financial Account No. 20500825 for fiscal years 2012 and 2013 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 205.6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On February 12, 2013, and February 21, 2013, Respondent submitted the DMRs for the monitoring periods ending July 31, 2012, through November 30, 2012, for Outfall Nos. 001 and 002.

Technical Requirements:

1. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished including the timely submittal of complete, signed, and certified monthly DMRs;
2. Within 30 days, submit payment for all outstanding fees, including any associated penalties and interest; and
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements 1 and 2.

Litigation Information

Date Petition(s) Filed: August 8, 2013
Date Green Card(s) Signed: August 14, 2013
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Joel Cordero, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division, (956) 430-6023
TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5875
Respondent: Larry Barnett, President, METROPLEX RETAINING WALLS, INC., P.O. Box 562, Millsap, TX 76066
Respondent’s Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	11-Feb-2013	Screening	25-Feb-2013	EPA Due	
	PCW	9-Oct-2013				

RESPONDENT/FACILITY INFORMATION						
Respondent	METROPLEX RETAINING WALLS, INC.					
Reg. Ent. Ref. No.	RN100800986					
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	46349	No. of Violations	2			
Docket No.	2013-0453-IWD-E	Order Type	1660			
Media Program(s)	Water Quality	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Jennifer Graves			
		EC's Team	Enforcement Team 1			
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$25,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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	20.0% Enhancement	Subtotals 2, 3, & 7	\$500
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Notes	Enhancement for one order with a denial of liability.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$27	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$3,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,000
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$3,000
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Screening Date 25-Feb-2013

Docket No. 2013-0453-IWD-E

PCW

Respondent METROPLEX RETAINING WALLS, INC.

Policy Revision 3 (September 2011)

Case ID No. 46349

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100800986

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 20%

Screening Date 25-Feb-2013

Docket No. 2013-0453-IWD-E

PCW

Respondent METROPLEX RETAINING WALLS, INC.

Policy Revision 3 (September 2011)

Case ID No. 46349

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100800986

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.7(d) and Texas Pollutant Discharge Elimination System General Permit No. TXG110585, Part IV, Standard Permit Conditions No. 7(f).

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on January 28, 2013. Specifically, the discharge monitoring reports ("DMRs") for the monitoring periods ending July 31, 2012; August 31, 2012; September 30, 2012; and November 30, 2012 for Outfall Nos. 001 and 002, were not submitted by the 20th day of the following monitoring month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

70% of the permit requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 10

152 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

Ten single events are recommended, one event per DMR per outfall.

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 \$27

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent METROPLEX RETAINING WALLS, INC.
Case ID No. 46349
Reg. Ent. Reference No. RN100800986
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)	\$250	20-Aug-2012	21-Feb-2013	0.51	\$0	\$8	\$9
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	31-Jul-2012	31-Dec-2013	1.42	\$18	n/a	\$18
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 prepare and submit the DMRs (10 DMRs x \$25 = \$250). Date required is the date the first missing DMR was due. Final date is the date the DMRs were submitted. Estimated cost for updating the Facility's operational guidance and conducting employee training to ensure that self-reporting requirements are properly accomplished. Date required is the initial month 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

\$500

TOTAL

\$27

Screening Date 25-Feb-2013

Docket No. 2013-0453-IWD-E

PCW

Respondent METROPLEX RETAINING WALLS, INC.

Policy Revision 3 (September 2011)

Case ID No. 46349

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100800986

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 205.6 and Tex. Water Code § 5.702

Violation Description Failed to pay outstanding General Permit Wastewater fees for TCEQ Financial Account No. 20500825 for fiscal years 2012 and 2013, as documented during a record review conducted on March 1, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

Matrix Notes No penalty was calculated for this violation.

Adjustment \$25,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$0

No penalty is recommended as penalties and interest will be assessed at the next billing.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts to Comply with columns: Before NOV, NOV to EDPRP/Settlement Offer.

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent METROPLEX RETAINING WALLS, INC.
Case ID No. 46349
Reg. Ent. Reference No. RN100800986
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

N/A

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Compliance History Report

PUBLISHED Compliance History Report for CN601528953, RN100800986, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN601528953, METROPLEX RETAINING WALLS, INC.	Classification: SATISFACTORY	Rating: 9.55
Regulated Entity:	RN100800986, PLANT 1 METROPLEX REDI MIX	Classification: SATISFACTORY	Rating: 9.55
Complexity Points:	0	Repeat Violator:	NO
CH Group:	10 - Cement and Concrete Product Manufacturing		
Location:	11016 S PIPELINE RD EULESS, TX, TARRANT COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		

ID Number(s):
WASTE WATER GENERAL PERMIT PERMIT TXG110585 **AIR NEW SOURCE PERMITS PERMIT 21591**

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: February 25, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 25, 2008 to February 25, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Jennifer Graves **Phone:** (956) 430-6023

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
- 1 Effective Date: 03/23/2009 ADMINORDER 2008-1334-IWD-E (1660 Order-Agreed Order With Denial)
 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 permit effluent limits as documented by a TCEQ record review of self-reported data.
 Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 319, SubChapter A 319.5(b)
 Rqmt Prov: Sampling & Analysis Requirements PERMIT
 Description: Failure to collect and analyze samples for required parameter(s) at the minimum frequency specified in the permit and Failure to take measurements for required parameter at the minimum frequency specified in the permit.
 Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
 Rqmt Prov: Effluent Reporting Requirements PERMIT
 Description: Failed to submit the required toxicity report. Specifically, the toxicity report for the annual monitoring period ending February 29, 2008 which includes Outfalls 1 and 2, was not included in the discharge monitoring report for that period.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 24, 2008	(678773)
Item 2	May 09, 2008	(698053)
Item 3	July 18, 2008	(698055)
Item 4	August 06, 2008	(719628)
Item 5	September 30, 2008	(719629)
Item 6	October 20, 2008	(719630)
Item 7	November 24, 2008	(734703)
Item 8	December 31, 2008	(734704)
Item 9	January 30, 2009	(757931)
Item 10	February 27, 2009	(757928)
Item 11	March 10, 2009	(757929)
Item 12	April 20, 2009	(757930)
Item 13	May 20, 2009	(774409)
Item 14	July 13, 2009	(824211)
Item 15	July 20, 2009	(824212)
Item 16	August 20, 2009	(824213)
Item 17	September 18, 2009	(824214)
Item 18	October 20, 2009	(824215)
Item 19	November 20, 2009	(824216)
Item 20	January 22, 2010	(824217)
Item 21	February 22, 2010	(824210)
Item 22	March 19, 2010	(837868)
Item 23	April 20, 2010	(837869)
Item 24	May 20, 2010	(837870)
Item 25	June 22, 2010	(848422)
Item 26	July 19, 2010	(862927)
Item 27	September 22, 2010	(869509)
Item 28	September 23, 2010	(876403)
Item 29	October 21, 2010	(883988)
Item 30	November 23, 2010	(890345)
Item 31	December 21, 2010	(898748)
Item 32	February 03, 2011	(904587)
Item 33	March 22, 2011	(911535)
Item 34	April 26, 2011	(932043)
Item 35	June 21, 2011	(940518)
Item 36	August 12, 2011	(955154)
Item 37	September 02, 2011	(961784)
Item 38	September 20, 2011	(967896)
Item 39	November 18, 2011	(973808)
Item 40	December 20, 2011	(986789)
Item 41	January 26, 2012	(993177)
Item 42	February 23, 2012	(1000513)
Item 43	May 04, 2012	(1012562)
Item 44	July 02, 2012	(1018959)
Item 45	July 23, 2012	(1026675)
Item 46	September 05, 2012	(1040566)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
METROPLEX RETAINING
WALLS, INC.;
RN100800986**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-0453-IWD-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 5, 7, and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is METROPLEX RETAINING WALLS, INC. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a concrete production plant located at 11016 South Pipeline Road in Euless, Tarrant County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on January 28, 2013, the TCEQ Compliance Monitoring Section documented that Respondent failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring reports ("DMRs") for the monitoring periods ending July 31, 2012, through November 30, 2012, for Outfall Nos. 001 and 002, were not submitted by the 20th day of the following monitoring month.
3. During a record review conducted on March 1, 2013, the TCEQ Enforcement Division Water Section documented that Respondent failed to pay General Permit Wastewater fees for TCEQ Financial Account No. 20500825 for fiscal years 2012 and 2013.
4. Respondent received notice of the violation alleged in Findings of Fact No. 2 on or about February 11, 2013. Respondent received notice of the violation alleged in Findings of Fact No. 3 on or about August 14, 2013.
5. The Executive Director recognizes that as of February 12, 2013, and February 21, 2013, Respondent submitted the DMRs for the monitoring periods ending July 31, 2012, through November 30, 2012, for Outfall Nos. 001 and 002.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of METROPLEX RETAINING WALLS, INC." (the "EDPRP") in the TCEQ Chief Clerk's office on August 8, 2013.

7. By letter dated August 8, 2013, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 14, 2013, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG110585, Part IV, Standard Permit Conditions No. 7(f).
3. As evidenced by Finding of Fact No. 3, Respondent failed to pay General Permit Wastewater fees for TCEQ Financial Account No. 20500825 for fiscal years 2012 and 2013, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 205.6.
4. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
5. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of three thousand dollars (\$3,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of three thousand dollars (\$3,000.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner

from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: METROPLEX RETAINING WALLS, INC.; Docket No. 2013-0453-IWD-E" to:

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

3. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Respondent shall:

- i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished including the timely submittal of complete, signed, and certified monthly DMRs, in accordance with TPDES General Permit No. TXG110585; and
- ii. Submit payment for all outstanding fees, including any associated penalties and interest, with the notation "Re: METROPLEX RETAINING WALLS, INC., TCEQ Financial Administration Account No. 20500825", to:

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

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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

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

and:

Jeff Tate, Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Dr.
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JOEL CORDERO

STATE OF TEXAS

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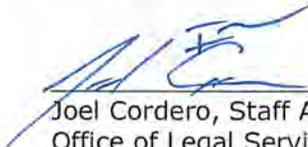
COUNTY OF TRAVIS

"My name is Joel Cordero. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of METROPLEX RETAINING WALLS, INC." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on August 8, 2013.

The EDPRP was mailed to Respondent's last known address on August 8, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on August 14, 2013, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Joel Cordero, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Joel Cordero, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 29th day of October, A.D. 2013.



Notary Signature



Notary without Bond