

Executive Summary – Enforcement Matter – Case No. 46684

Bao Vu Nguyen

RN101721264

Docket No. 2013-0778-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Carousel Mobile Home Park, located approximately 1.5 miles northeast of the intersection of Hardy Weedon Road and State Highway 30, Brazos County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 7, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$23,100

Amount Deferred for Expedited Settlement: \$4,620

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$18,480

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Bao Vu Nguyen
RN101721264
Docket No. 2013-0778-MWD-E

Investigation Information

Complaint Date(s): December 21, 2012

Complaint Information: Alleged a strong septic odor was coming from a retention pond near the Carousel Mobile Home Park on College Station.

Date(s) of Investigation: February 5, 2013

Date(s) of NOE(s): April 5, 2013

Violation Information

1. Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration [30 TEX. ADMIN. CODE §§ 30.350(d), 305.125(1), and TCEQ Permit No. WQ0011869001 Special Provisions No. 2].
2. Failed to maintain operations, maintenance, and monitoring records [30 TEX. ADMIN. CODE § 305.125(1) and (11)(B), and TCEQ Permit No. WQ0011869001 Monitoring Requirements 3.b and Operational Requirements No. 1].
3. Failed to maintain sludge records [30 TEX. ADMIN. CODE § 305.125(1) and (11)(B), and TCEQ Permit No. WQ0011869001 Special Provisions No. 16].
4. Failed to provide equipment to determine application rates and to maintain accurate records of the volume of effluent applied to the irrigation field. Specifically, the Facility does not have equipment to measure the irrigation application rates and had not maintained application records for the past three years [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011869001 Special Provisions No. 6].
5. Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, the stabilization ponds had excessive woody vegetation along the banks [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011869001 Special Provisions No. 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

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Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Ensure a properly certified wastewater treatment facility operator holding a valid license or registration operates the Facility at least five days a week;

ii. Implement a record keeping system to ensure all required records, including maintenance, operations, monitoring, sludge, and irrigation records, are maintained and made available for review upon request; and

iii. Provide appropriate equipment to determine application rates of the volume of effluent applied for irrigation.

b. Within 45 days, submit written certification of compliance with Ordering Provisions a.i. through a.iii.

c. Within 60 days, remove the woody vegetation around the effluent ponds.

d. Within 75 days, submit written certification of compliance with Ordering Provision c.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Bao Vu Nguyen, Owner, 5925 Hardy Weedon Road #1, College Station, Texas 77845

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	15-Apr-2013	Screening	19-Apr-2013	EPA Due	
	PCW	19-Apr-2013				

RESPONDENT/FACILITY INFORMATION			
Respondent	Bao Vu Nguyen		
Reg. Ent. Ref. No.	RN101721264		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	46684	No. of Violations	5
Docket No.	2013-0778-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	JR Cao
		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	\$15,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0

Notes: No adjustment for compliance history.

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
Total EB Amounts	\$8,827	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$80,520		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	46.7%	Adjustment	\$7,350
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Reduces or enhances the Final Subtotal by the indicated percentage.
Notes: Adjustment to capture the avoided cost associated with Violation No. 1.

Final Penalty Amount	\$23,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$23,100
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,620
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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	\$18,480
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Screening Date 19-Apr-2013

Docket No. 2013-0778-MWD-E

PCW

Respondent Bao Vu Nguyen

Policy Revision 3 (September 2011)

Case ID No. 46684

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101721264

Media [Statute] Water Quality

Enf. Coordinator JR Cao

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

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 19-Apr-2013
Respondent Bao Vu Nguyen
Case ID No. 46684
Reg. Ent. Reference No. RN101721264
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Docket No. 2013-0778-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d), 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0011869001 Special Provisions No. 2

Violation Description

Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration, as documented during an investigation conducted on February 5, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 3 73 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the investigation date (February 5, 2013) to the screening date (April 19, 2013).

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 \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,760

Violation Final Penalty Total \$16,500

This violation Final Assessed Penalty (adjusted for limits) \$16,500

Economic Benefit Worksheet

Respondent Bao Vu Nguyen
Case ID No. 46684
Reg. Ent. Reference No. RN101721264
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)	\$35,000	19-Apr-2013	15-Nov-2013	0.58	\$67	\$1,342	\$1,410
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

Estimated salary of a licensed wastewater operator. Date required is the screening date. Final date is the estimated 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	\$35,000	5-Feb-2013	19-Apr-2013	0.20	\$350	\$7,000	\$7,350
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

Estimated avoided cost to hire a licensed wastewater operator. Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance

\$70,000

TOTAL

\$8,760

Screening Date 19-Apr-2013
Respondent Bao Vu Nguyen
Case ID No. 46684
Reg. Ent. Reference No. RN101721264
Media [Statute] Water Quality
Enf. Coordinator JR Cao

Docket No. 2013-0778-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number
Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (11)(B), and TCEQ Permit No. WQ0011869001 Monitoring Requirements 3.b and Operational Requirements No. 1

Violation Description

Failed to maintain operations, maintenance, and monitoring records, as documented during an investigation conducted on February 5, 2013.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

Matrix Notes

100% of the permit requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Bao Vu Nguyen
Case ID No. 46684
Reg. Ent. Reference No. RN101721264
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
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$200	5-Feb-2013	15-Nov-2013	0.78	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to develop a record keeping system for maintenance, operational, monitoring, sludge, and irrigation records. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$200	TOTAL	\$8
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Screening Date 19-Apr-2013
 Respondent Bao Vu Nguyen
 Case ID No. 46684

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PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101721264

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (11)(B), and TCEQ Permit No. WQ0011869001 Special Provisions No. 16

Violation Description Failed to maintain sludge records, as documented during an investigation conducted on February 5, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			5.0%

Matrix Notes 100% of the permit requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 73

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

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,833

This violation Final Assessed Penalty (adjusted for limits) \$1,833

Economic Benefit Worksheet

Respondent Bao Vu Nguyen
Case ID No. 46684
Reg. Ent. Reference No. RN101721264
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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. 2.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 19-Apr-2013
Respondent Bao Vu Nguyen
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Media [Statute] Water Quality
Enf. Coordinator JR Cao

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PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0011869001 Special Provisions No. 6

Violation Description

Failed to provide equipment to determine application rates and to maintain accurate records of the volume of effluent applied to the irrigation field, as documented during an investigation conducted on February 5, 2013. Specifically, the Facility does not have equipment to measure the irrigation application rates and had not maintained application records for the past three years.

Base Penalty \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> **Programmatic Matrix**

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events

Number of violation days

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

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (February 5, 2013) to the screening date (April 19, 2013).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,833

This violation Final Assessed Penalty (adjusted for limits) \$1,833

Economic Benefit Worksheet

Respondent Bao Vu Nguyen
Case ID No. 46684
Reg. Ent. Reference No. RN101721264
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
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$300	5-Feb-2013	15-Nov-2013	0.78	\$1	\$16	\$16
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

Estimated cost to provide equipment to determine application rates. Date required is the investigation date. Final date is the estimated 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

\$300

TOTAL

\$16

Screening Date 19-Apr-2013

Docket No. 2013-0778-MWD-E

PCW

Respondent Bao Vu Nguyen

Policy Revision 3 (September 2011)

Case ID No. 46684

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101721264

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0011869001 Special Provisions No. 3

Violation Description

Failed to properly operate and maintain all facilities and systems of treatment and control, as documented during an investigation conducted on February 5, 2013. Specifically, the stabilization ponds had excessive woody vegetation along the banks.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

73 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$1,100

This violation Final Assessed Penalty (adjusted for limits) \$1,100

Economic Benefit Worksheet

Respondent Bao Vu Nguyen
Case ID No. 46684
Reg. Ent. Reference No. RN101721264
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$800	5-Feb-2013	15-Nov-2013	0.78	\$2	\$41	\$43
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

Estimated delayed cost to remove the excessive vegetation from the effluent holding ponds. Date required is the date of the investigation. 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

\$800

TOTAL

\$43

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN601549785, RN101721264, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN601549785, Bao Vu Nguyen	Classification:	UNCLASSIFIED	Rating:	-----
Regulated Entity:	RN101721264, CAROUSEL MOBILE HOME PARK	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	3	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	APPROXIMATELY 1.5 MILES NORTHEAST OF THE INTERSECTION OF HARDY WEEDON ROAD AND STATE HIGHWAY 30, BRAZOS COUNTY, TEXAS				
TCEQ Region:	REGION 09 - WACO				
ID Number(s):	MASTEWATER PERMIT WQ0011869001				
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	April 18, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	April 18, 2008 to April 18, 2013				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	JR Cao	Phone	(512) 239-2543		

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BAO VU NGUYEN
RN101721264

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

AGREED ORDER
DOCKET NO. 2013-0778-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bao Vu Nguyen ("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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 1.5 miles northeast of the intersection of Hardy Weedon Road and State Highway 30 in Brazos County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE ch. 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 10, 2013.
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-Three Thousand One Hundred Dollars (\$23,100) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand Four

Hundred Eighty Dollars (\$18,480) of the administrative penalty and Four Thousand Six Hundred Twenty Dollars (\$4,620) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director 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 of the Facility, the Respondent is alleged to have:

1. Failed to employ or contract one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d), 305.125(1), and TCEQ Permit No. WQ0011869001 Special Provisions No. 2, as documented during an investigation conducted on February 5, 2013.
2. Failed to maintain operations, maintenance, and monitoring records, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (11)(B), and TCEQ Permit No. WQ0011869001 Monitoring Requirements 3.b and Operational Requirements No. 1, as documented during an investigation conducted on February 5, 2013.
3. Failed to maintain sludge records, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (11)(B), and TCEQ Permit No. WQ0011869001 Special Provisions No. 16, as documented during an investigation conducted on February 5, 2013.
4. Failed to provide equipment to determine application rates and to maintain accurate records of the volume of effluent applied to the irrigation field, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011869001 Special Provisions No.

- 6, as documented during an investigation conducted on February 5, 2013. Specifically, the Facility does not have equipment to measure the irrigation application rates and had not maintained application records for the past three years.
5. Failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0011869001 Special Provisions No. 3, as documented during an investigation conducted on February 5, 2013. Specifically, the stabilization ponds had excessive woody vegetation along the banks.

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: Bao Vu Nguyen, Docket No. 2013-0778-MWD-E" 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

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:
- i. Ensure a properly certified wastewater treatment facility operator holding a valid license or registration operates the Facility at least five days a week, in accordance with 30 TEX. ADMIN. CODE § 30.350(d) and TCEQ Permit No. WQ0011869001 Special Provisions No. 2;
- ii. Implement a record keeping system to ensure all required records, including maintenance, operations, monitoring, sludge, and irrigation records, are maintained and made available for review upon request, in accordance with TCEQ Permit No. WQ0011869001 Monitoring Requirements 3.b, Operational Requirements No. 1, and Special Provisions Nos. 6 and 16; and

- iii. Provide appropriate equipment to determine application rates of the volume of effluent applied for irrigation, in accordance with TCEQ Permit No. WQ0011869001, Special Provisions No. 6.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i through 2.a.iii. The certification shall be in accordance with Ordering Provision No. 2.e below;
- c. Within 60 days after the effective date of this Agreed Order, remove the woody vegetation around the effluent ponds;
- d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c. The certification shall be in accordance with Ordering Provision No. 2.e. below; and
- e. The written certification of compliance required by Ordering Provisions Nos. 2.b and 2.d 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Noveck J
For the Executive Director

3/28/14
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.

Bao Vu Nguyen
Signature

12 09 2013
Date

BAO NGUYEN
Name (Printed or typed)
Authorized Representative of
Bao Vu Nguyen

OWNER
Title

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