

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 45690
Duchman, Ltd. f/k/a DuchMandola, Ltd.
RN104789094
Docket No. 2012-2547-IWD-E

Order Type:

Agreed Order

Media:

IWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Farm-to-Market Road 150, approximately 2.5 miles from the intersection of County Road 170 and Farm-to-Market Road 150, south-southeast of Driftwood, Hays County

Type of Operation:

vineyard and wine production facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: February 28, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$47,134

Deferred for Financial Inability to Pay: \$29,166

Total Paid to General Revenue: \$503

Total Due to General Revenue: \$17,465

Payment Plan: 35 payments of \$499 each

Compliance History Classifications:

Person/CN –Satisfactory
Site/RN –Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011 (PCW 1); 2002 (PCW 2)

Investigation Information

Date(s) of Investigation: September 19, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): November 13, 2012

Violation Information

1. Failed to prevent the unauthorized discharge of wastewater or any other waste [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1) and (5); and TCEQ Permit No. WQ0004916000, Special Provisions D.1., Permit Conditions No. 2.g., and Operational Requirements No. 1].
2. Failed to conduct periodic inspections of the evaporation pond leak detection system [30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ00049160001, Special Provisions E.2.c.].
3. Failed to submit monitoring results (effluent monitoring reports) at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.1; and TCEQ Permit No. WQ0004916000, Conditions of the Permit].
4. Failed to submit monitoring results (Pollutant Analysis Report) at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.1; and TCEQ Permit No. WQ0004916000, Special Provisions G].
5. Failed to comply with the permitted effluent limit for five-day biochemical oxygen demand (BOD-5) daily maximum [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ0004916000, Conditions of the Permit].
6. Failed to submit noncompliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more within five working days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ0004916000, Monitoring Requirements No. 7.c.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Repair the evaporation pond liner and have the liner recertified by a Texas-licensed professional engineer ensuring that the liner meets the requirements included in TCEQ Permit No. WQ0004916000, Operational Requirements No. 1, and Special Provisions D and E (Violation No. 1);
 - b. Update operational procedures and conduct employee training to ensure that all reporting requirements of the permit are met and monthly inspections of the evaporation pond leak detection system are conducted (Violation Nos. 2, 3, 4, and 6);
 - c. Begin conducting monthly inspections of the leak detection system and implement procedures to remove leaking ponds from service until repairs are made or replacement ponds are constructed, in accordance with TCEQ Permit No. WQ0004916000, Special Provisions E.2.c. (Violation No. 2);
 - d. Submit the effluent monitoring results for September 2011 (Violation No. 3); and
 - e. Submit the Pollutant Analysis Report to the TCEQ Industrial Permits Team (Violation No. 4).
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. through 1.e.
3. Within 90 days, submit written certification, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current effluent data, demonstrating at least three consecutive months of compliance with all permitted effluent limitations (Violation no. 5).

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 45690
Duchman, Ltd. f/k/a DuchMandola, Ltd.
RN104789094
Docket No. 2012-2547-IWD-E

Litigation Information

Date Petition(s) Filed: May 14, 2013
Date Answer(s) Filed: June 16, 2013
SOAH Referral Date: July 23, 2013
Hearing Date(s):
Preliminary hearing: September 5, 2013 (waived)
Evidentiary hearing: December 18, 2013 (scheduled)
Settlement Date: December 6, 2013

Contact Information

TCEQ Attorneys: Jeffrey J. Huhn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Blas Coy, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Lanae Foard, Enforcement Division, (512) 239-2554
TCEQ Regional Contact: Carolyn Runyon, Austin Regional Office, (512) 239-7050
Respondent: Stanley Duchman, President, Duchman GP, Inc., General Partner, Duchman, Ltd.,
P.O. Box 187, Driftwood, Texas 78619
Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	20-Nov-2012			
	PCW	9-Apr-2013	Screening	3-Dec-2012	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.			
Reg. Ent. Ref. No.	RN104789094			
Facility/Site Region	11-Austin	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	45690	No. of Violations	5
Docket No.	2012-2547-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		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** **\$28,750**

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** **\$5,750**

Notes Enhancement for one order with denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts	\$2,232	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$16,085	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$34,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **1.8%** **Adjustment** **\$634**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to collect avoided costs associated with Violation Nos. 2 and 5.

Final Penalty Amount **\$35,134**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$35,134**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$35,134**

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola,			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45690			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

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)**

N/A	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 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 3-Dec-2012 **Docket No.** 2012-2547-IWD-E **PCW**
Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd. *Policy Revision 3 (September 2011)*
Case ID No. 45690 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN104789094
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and (5), and TCEQ Permit No. WQ0004916000, Special Provisions D.1, Permit Conditions No. 2.g, and Operational Requirements No. 1

Violation Description Failed to prevent the unauthorized discharge of wastewater or any other waste, as documented during an investigation conducted on September 19, 2012. Specifically, there was a tear along a seam in the evaporation pond liner from the top of the pond to the middle of the pond which resulted in a discharge of wastewater to the ground in the immediate area of the tear, and there was water in the pipe which serves as the leak detection system for the evaporation pond.

Base Penalty

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

OR	Harm			Percent <input type="text" value="5.0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

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 checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the investigation date (September 19, 2012) to the screening date (December 3, 2012).

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="text" value="x"/>	(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 Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
Media Violation No. Water Quality
 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)	\$5,000	19-Sep-2012	3-Jul-2013	0.79	\$197	n/a	\$197

Notes for DELAYED costs Estimated cost to repair the evaporation pond liner, to have the liner recertified by a Texas-licensed professional engineer, and to provide a copy of the liner certification to the TCEQ. Date required is the investigation date. 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 **TOTAL**

Screening Date 3-Dec-2012	Docket No. 2012-2547-IWD-E	PCW
Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.		<i>Policy Revision 3 (September 2011)</i>
Case ID No. 45690		<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No. RN104789094		
Media [Statute] Water Quality		
Enf. Coordinator Lanae Foard		

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0004916000, Special Provisions E.2.c

Violation Description Failed to conduct periodic inspections of the evaporation pond leak detection system, as documented during an investigation conducted on September 19, 2012.

Base Penalty

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

OR	Harm				
		Major	Moderate		Minor
	Release	Actual	Potential		Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>	
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="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 this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Five quarterly events are recommended from September 1, 2011, through the investigation date (September 19, 2012).

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 type="text" value="x"/>	(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 Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
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

Delayed costs for this violation have been included with Violation No. 5.

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]	\$210	31-Dec-2010	19-Sep-2012	2.64	\$28	\$210	\$238
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct monthly inspections of the leak detection system (\$10 per inspection).
 Date required is the date the first inspection was due. Final date is the investigation date.

Approx. Cost of Compliance

\$210

TOTAL

\$238

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45690			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.1 and TCEQ Permit No. WQ0004916000, Conditions of the Permit			
Violation Description	Failed to submit monitoring results at the intervals specified in the permit, as documented during an investigation conducted on September 19, 2012. Specifically, the Respondent failed to submit effluent monitoring results to the TCEQ Enforcement Division, Industrial Permits Team of the Water Quality Division, and Austin Regional Office during the month of September 2011.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential		Percent 0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events: 1 430 Number of violation days

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 \$2 **Violation Final Penalty Total** \$1,528

This violation Final Assessed Penalty (adjusted for limits) \$1,528

Economic Benefit Worksheet

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
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	\$25	30-Sep-2011	3-Jul-2013	1.76	\$2	n/a	\$2
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 submit the effluent monitoring results to the TCEQ. Date required is the date the results were due. 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 \$25

TOTAL \$2

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45690			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)
 Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0004916000, Conditions of the Permit

Violation Description
 Failed to comply with the permitted effluent limit for five-day biochemical oxygen demand daily maximum, as documented during an investigation conducted on September 19, 2012, and as shown in the attached violation table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="5.0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>

Matrix Notes
 Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

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 checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Five quarterly events are 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="text" value="x"/>	(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)

Duchman, Ltd. f/k/a DuchMandola, Ltd.

2012-2547-IWD-E

Violation No. 4 Effluent Chart

<u>Monitoring Period</u>	<u>BOD-5 Exceedence</u> <i>Limit = 100 mg/L</i>
<i>2011 Penalty Policy, effective September 1, 2011</i>	
September 2011	43,500 mg/L
October 2011	653 mg/L
November 2011	1,180 mg/L
December 2011	485 mg/L
January 2012	156 mg/L
February 2012	237 mg/L
March 2012	170 mg/L
April 2012	128 mg/L
May 2012	906 mg/L
June 2012	539 mg/L
July 2012	295 mg/L
August 2012	403 mg/L
September 19, 2012 *	346 mg/L
<i>*grab sample taken by investigator during investigation mg/L = milligrams per liter</i>	

Economic Benefit Worksheet

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
Media Violation No. Water Quality
 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Dec-2010	1-Sep-2013	2.67	\$1,336	n/a	\$1,336

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$1,336

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45690			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5.0%"/>

Matrix Notes

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="text" value="x"/>

Violation Base Penalty

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="text" value="x"/>	(mark with x)

Notes

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)

Duchman, Ltd. f/k/a DuchMandola, Ltd.

2012-2547-IWD-E

Violation No. 5

Noncompliance (Exceedences) Chart

Monitoring Period	Exceedance of 40% or more
<i>2011 Penalty Policy, effective September 1, 2011</i>	
September 2011	x
October 2011	x
November 2011	x
December 2011	x
January 2012	x
February 2012	x
March 2012	x
April 2012	Exceedance of less than 40%
May 2012	x
June 2012	x
July 2012	x
August 2012	x

Economic Benefit Worksheet

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
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	\$500	25-Dec-2010	3-Jul-2013	2.52	\$63	n/a	\$63
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 operational procedures and conduct employee training to ensure that all reporting requirements of the permit are met and monthly inspections of the evaporation pond leak detection are conducted. Date required is the date the first noncompliance notification was due. 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]	\$350	25-Dec-2010	19-Sep-2012	2.65	\$46	\$350	\$396
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost avoided by failing to submit the noncompliance notifications (\$25 per notification). Date required is the date the first report was due. Final date is the investigation date.

Approx. Cost of Compliance

\$850

TOTAL

\$460



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Nov-2012			
	PCW	9-Apr-2013	Screening	3-Dec-2012	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.	
Reg. Ent. Ref. No.	RN104789094	
Facility/Site Region	11-Austin	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	45690	No. of Violations	4
Docket No.	2012-2547-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$10,000

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** \$2,000

Notes	Enhancement for one order with denial of liability.
--------------	---

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes	The Respondent does not meet the culpability criteria.
--------------	--

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts	\$3	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$25	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$12,000

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount \$12,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$12,000

DEFERRAL 0.0% Reduction **Adjustment** \$0

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

Notes	Deferral not offered for non-expedited settlement.
--------------	--

PAYABLE PENALTY \$12,000

Screening Date 3-Dec-2012

Docket No. 2012-2547-IWD-E

PCW

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 45690

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104789094

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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)

N/A

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 denial of liability.

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

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.		Policy Revision 2 (September 2002)	
Case ID No.	45690	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm				Percent <input type="text" value="10%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

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

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)

Duchman, Ltd. f/k/a DuchMandola, Ltd.
2012-2547-IWD-E

Violation No. 1 Effluent Chart

<u>Monitoring Period</u>	<u>BOD-5 Exceedence</u> <i>Limit = 100 mg/L</i>
<i>2002 Penalty Policy, effective September 1, 2002</i>	
December 2010	1,030 mg/L
May 2011	1,070 mg/L
August 2011	5,400 mg/L
<i>mg/L = milligrams per liter</i>	

Economic Benefit Worksheet

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
Media Violation No. Water Quality
 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

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

Notes for DELAYED costs

Economic benefit for this violation has been included with Violation No. 2 on the accompanying PCW.

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

TOTAL

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45690			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

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="text" value="x"/>

Violation Base Penalty

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="text" value="x"/>	(mark with x)

Notes

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)

Duchman, Ltd. f/k/a DuchMandola, Ltd.
2012-2547-IWD-E

Violation No. 2
Noncompliance (Exceedences) Chart

<u>Monitoring Period</u>	<u>Exceedance of 40% or more</u>
<i>2002 Penalty Policy, effective September 1, 2002</i>	
December 2010	x
May 2011	x
August 2011	x

Economic Benefit Worksheet

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
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

Economic benefit for this violation has been included with Violation No. 3 on the accompanying PCW.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45690			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0004916000, Special Provisions E.2.c			
Violation Description	Failed to conduct periodic inspections of the evaporation pond leak detection system, as documented during an investigation conducted on September 19, 2012.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 10%
Potential		x			

>> 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: 3 735 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended from the date the permit was issued (November 29, 2010) through August 31, 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 \$3,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$3,600

This violation Final Assessed Penalty (adjusted for limits) \$3,600

Economic Benefit Worksheet

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Delayed costs for this violation have been included with Violation No. 3 on the accompanying PCW.

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

Avoided costs for this violation have been included with Violation No. 4 on the accompanying PCW.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date	3-Dec-2012	Docket No.	2012-2547-IWD-E	PCW
Respondent	Duchman, Ltd. formerly known as DuchMandola, Ltd.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45690			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN104789094			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.1 and TCEQ Permit No. WQ0004916000, Special Provisions G			
Violation Description	Failed to submit monitoring results at the intervals specified in the permit, as documented during an investigation conducted on September 19, 2012. Specifically, the Respondent failed to submit the Pollutant Analysis report to the TCEQ Wastewater Permitting Section, within 90 days from the issuance of the permit.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential		Percent <input type="text" value="0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	100% of the permit requirement was not met.				
					Adjustment <input type="text" value="\$9,000"/>

Violation Events

Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="645"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$1,000"/>
	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="text" value="x"/>			
	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="text" value="x"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
				Violation Subtotal <input type="text" value="\$1,000"/>

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$3"/>	Violation Final Penalty Total <input type="text" value="\$1,200"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,200"/>	

Economic Benefit Worksheet

Respondent Duchman, Ltd. formerly known as DuchMandola, Ltd.
Case ID No. 45690
Reg. Ent. Reference No. RN104789094
Media Violation No. Water Quality
 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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)	\$25	27-Feb-2011	3-Jul-2013	2.35	\$3	n/a	\$3

Notes for DELAYED costs
 Estimated cost to submit the Pollutant Analysis report to the TCEQ. Date required is the date the report was due. 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 **TOTAL**

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 CN602936304, RN104789094, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602936304, Duchman, Ltd. formerly known as DuchMandola, Ltd. **Classification:** SATISFACTORY **Rating:** 13.33

Regulated Entity: RN104789094, MANDOLA ESTATE WINERY **Classification:** SATISFACTORY **Rating:** 13.33

Complexity Points: 6 **Repeat Violator:** NO

CH Group: 14 - Other

Location: On Farm-to-Market Road 150, approximately 2.5 miles from the intersection of County Road 170 and Farm-to-Market Road 150, south-southeast of Driftwood, Hays County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s): **WASTEWATER PERMIT** WQ0004916000
WATER QUALITY NON PERMITTED ID NUMBER R11104789094

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

Date Compliance History Report Prepared: January 07, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 07, 2008 to January 07, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Lanae Foard

Phone: (512) 239-2554

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:** 08/09/2010 **ADMINORDER** 2010-0032-IWD-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 30 TAC Chapter 305, SubChapter D 305.65
30 TAC Chapter 305, SubChapter F 305.125(2)
TWC Chapter 26 26.121

Description: Failure to obtain authorization to operate a wastewater treatment facility. Specifically, Respondent's wastewater permit, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004780000, expired on September 1, 2009, and the Facility has continued to operate.

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

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DUCHMAN, LTD. FKA
DUCHMANDOLA, LTD.;
RN104789094**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-2547-IWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Duchman, Ltd. f/k/a DuchMandola, Ltd. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a vineyard and wine production facility located on Farm-to-Market Road 150, approximately 2.5 miles from the intersection of County Road 170 and Farm-to-Market Road 150, south-southeast of Driftwood in Hays 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. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of forty-seven thousand one hundred thirty-four dollars (\$47,134.00) is assessed by the Commission in settlement of the violations alleged in Section II. The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the administrative. Therefore, twenty-nine thousand one hundred sixty-six dollars (\$29,166.00) of the administrative penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order, and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including any payment schedule, the Executive Director may require Respondent to pay all or part of the deferred administrative penalty.

Respondent paid five hundred three dollars (\$503.00) of the undeferred administrative penalty. The remaining amount of seventeen thousand four hundred

sixty-five dollars (\$17,465.00) of the undeferred administrative penalty shall be payable in thirty-five (35) monthly payments of four hundred ninety-nine dollars (\$499.00) each. The first 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 Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his 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 acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of the deferred penalty amount.

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on September 19, 2012, a TCEQ Austin Regional Office investigator documented that Respondent:
 - a. Failed to prevent the unauthorized discharge of wastewater or any other waste, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1) and (5); and TCEQ Permit No. WQ0004916000, Special Provisions D.1, Permit Conditions No. 2.g, and Operational Requirements No. 1. Specifically, there was a tear along a seam in the evaporation pond liner from the top of the pond to the middle of the pond which resulted in a discharge of wastewater to the ground in the immediate area of the tear, and there was water in the pipe which serves as the leak detection system for the evaporation pond;
 - b. Failed to conduct periodic inspections of the evaporation pond leak detection system, in violation of 30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ0004916000, Special Provisions E.2.c.;
 - c. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.1; and TCEQ Permit No. WQ0004916000, Conditions of the Permit. Specifically,

Respondent failed to submit effluent monitoring results to the TCEQ Enforcement Division, the Industrial Permits Team of the Water Quality Division, and the Austin Regional Office for the month of September 2011;

- d. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.1; and TCEQ Permit No. WQ0004916000, Special Provisions G. Specifically, Respondent failed to submit the Pollutant Analysis report to the TCEQ Wastewater Permitting Section within 90 days from the issuance of the permit;

- e. Failed to comply with the permitted effluent limit for five-day biochemical oxygen demand (BOD-5) daily maximum, as shown in the effluent violation table below, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ0004916000, Conditions of the Permit; and

- f. Failed to submit noncompliance notifications for effluent violations that exceeded the permitted effluent limit by 40% or more within five working days of becoming aware of the noncompliance, as shown in the effluent violation table below, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0004916000, Monitoring Requirements No. 7.c.

Effluent Violation Table		
<u>Monitoring Period</u>	<u>BOD-5 Exceedence</u> <i>Limit = 100 mg/L</i>	<u>Exceedence of 40% or more</u>
<i>2002 Penalty Policy, effective September 1, 2002</i>		
December 2010	1,030 mg/L	x
May 2011	1,070 mg/L	x
August 2011	5,400 mg/L	x
<i>2011 Penalty Policy, effective September 1, 2011</i>		
September 2011	43,500 mg/L	x
October 2011	653 mg/L	x
November 2011	1,180 mg/L	x
December 2011	485 mg/L	x
January 2012	156 mg/L	x
February 2012	237 mg/L	x
March 2012	170 mg/L	x
April 2012	128 mg/L	Exceedence of less than 40%
May 2012	906 mg/L	x
June 2012	539 mg/L	x
July 2012	295 mg/L	x
August 2012	403 mg/L	x
September 19, 2012 *	346 mg/L	N/A
<i>*grab sample taken by investigator during investigation mg/L = milligrams per liter</i>		

- 2. Respondent received notice of the violations on or about November 18, 2012.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Duchman, Ltd. f/k/a DuchMandola, Ltd., Docket No. 2012-2547-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

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Repair the evaporation pond liner and have the liner recertified by a Texas-licensed professional engineer ensuring that the liner meets the requirements included in TCEQ Permit No. WQ0004916000, Operational Requirements No. 1, and Special Provisions D and E (Allegation No. 1.a.);
 - ii. Update operational procedures and conduct employee training to ensure that all reporting requirements of the permit are met and monthly inspections of the evaporation pond leak detection system are conducted (Allegation Nos. 1.b., 1.c., 1.d., and 1.f.);
 - iii. Begin conducting monthly inspections of the leak detection system and implement procedures to remove leaking ponds from service until repairs are made or replacement ponds are constructed, in accordance with TCEQ Permit No. WQ0004916000, Special Provisions E.2.c. (Allegation No. 1.b.);
 - iv. Submit the effluent monitoring results for September 2011 (Allegation No. 1.c.) to:

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

and:

Industrial Permits Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

Carolyn Runyon, Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- v. Submit the Pollutant Analysis report to the TCEQ Industrial Permits Team, at the address listed in Ordering Provision No. 2.a.iv., above (Allegation No. 1.d.).
- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Ordering Provision No. 2.d., below, to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.a.v.
- c. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Paragraph No. 2.d., below, of compliance with the effluent limits of TCEQ Permit No. WQ0004916000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current effluent data, demonstrating at least three consecutive months of compliance with all permitted effluent limitations (Allegation No. 1.e.)
- d. The certifications required by these Ordering Provisions 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 certifications 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:

Carolyn Runyon, Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to

- personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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.
 6. 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 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.
 7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
 8. 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.
 9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director



Date

May 2, 2014

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Duchman, Ltd. f/k/a DuchMandola, Ltd., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Signature - Stanley Duchman, President
Duchman GP, Inc., General Partner
Duchman, Ltd.

Date

12/10/13