

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45449
8 Mile Park, L.P.
RN101614212
Docket No. 2012-2343-MWD-E

Order Type:

Default Order (SOAH evidentiary hearing)

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Autumn Shadows Subdivision, on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459, Brazoria County

Type of Operation:

wastewater treatment plant

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: August 15, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$49,649

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$49,649

Compliance History Classifications:

Person/CN – CH 1: Average; CH 2: Satisfactory
Site/RN – CH 1: Average; CH 2: Satisfactory

Major Source: No

Statutory Limit Adjustment: None

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

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: May 18, 2011; October 16, 2013

Date(s) of NOV(s): CH 1: 16 related NOVs; CH 2: February 24, 2012

Date(s) of NOE(s): July 20, 2011; October 25, 2012

8 Mile Park, L.P.
RN101614212
Docket No. 2012-2343-MWD-E

Violation Information

1. Failed to collect and analyze samples for *Escherichia coli* [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4; and Texas Pollution Discharge Elimination System ("TPDES") Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements No. 1.].
2. Failed to properly operate and maintain all facilities and systems of treatment and control [30 TEX. ADMIN. CODE § 305.125(5); and TPDES Permit No. WQ0013796001, Operational Requirements No. 1].
3. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d); and TPDES No. WQ0013796001, Monitoring and Reporting Requirements No. 1].
4. Failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012 [30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(17); and TPDES No. WQ0013796001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

Within 30 days:

1. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly DMRs and annual sludge reports;
2. Update the Facility's operational guidance to ensure that all effluent parameters, including *Escherichia coli*, are monitored at the frequency specified in TPDES Permit No. WQ0013796001; and
3. Submit the missing discharge monitoring reports for the monitoring periods ending August 31, September 30, October 31, November 30, and December 31, 2011; January 31, February 29, March 31, April 30, May 31, June 30, and July 31, 2012; and the annual sludge report for the monitoring period ending July 31, 2012.
4. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: April 11, 2013; December 19, 2013
Date Answer(s) Filed: May 20, 2013
SOAH Referral Date: July 1, 2013
Hearing Date(s):
Preliminary hearing: August 29, 2013
Evidentiary hearing: May 30, 2014 (Defaulted)

Contact Information

TCEQ Attorneys: Jeffrey J. Huhn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Vic McWherter, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Lanae Foard, Enforcement Division, 512-239-4930
TCEQ Regional Contact: Stephen Smith, Houston Regional Office, (713) 767-3500
Respondent Contact: Ronald Finkelman, President, 8 Mile Park, L.P., 6300 West Loop South, Ste. 100, Bellaire, Texas 77401
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	25-Jul-2011	Screening	8-Aug-2011	EPA Due	
	PCW	17-Jul-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	8 Mile Park, L.P.		
Reg. Ent. Ref. No.	RN101614212		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45449	No. of Violations	2
Docket No.	2012-2343-MWD-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	\$17,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	56.0% Enhancement	Subtotals 2, 3, & 7	\$9,800
Notes	Enhancement for 16 months of self-reported effluent violations, two NOV's with dissimilar violations, and one agreed order with a 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	\$2,105	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$3,275		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$27,300
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OTHER FACTORS AS JUSTICE MAY REQUIRE	7.5%	Adjustment	\$2,037
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to the capture avoided costs associated with violation no. 1.		
	Final Penalty Amount	\$29,337	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$29,337
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.		
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PAYABLE PENALTY	\$29,337
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Screening Date 8-Aug-2011
Respondent 8 Mile Park, L.P.
Case ID No. 45449
Reg. Ent. Reference No. RN101614212
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Docket No. 2012-2343-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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	18	36%
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) 56%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 16 months of self-reported effluent violations, two NOVs with dissimilar violations, and one agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 56%

Screening Date	8-Aug-2011	Docket No.	2012-2343-MWD-E	PCW
Respondent	8 Mile Park, L.P.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45449			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101614212			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.4 and Texas Pollutant Discharge Elimination ("TPDES") Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to collect and analyze samples for Escherichia coli, as documented during an investigation conducted on May 18, 2011. Specifically, the Respondent has not collected and analyzed any samples for E. coli since the permit was issued on December 23, 2009.

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 checked="" type="text" value="x"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

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

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

Seventeen single events are recommended from the permit issuance date of December 23, 2009 through the May 18, 2011 investigation date for the months when sampling for Escherichia coli did not occur.

Good Faith Efforts to Comply

0.0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<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 8 Mile Park, L.P.
Case ID No. 45449
Reg. Ent. Reference No. RN101614212
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	18-May-2011	31-Mar-2012	0.87	\$11	n/a	\$11
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 guidance to ensure that all effluent parameters, including Escherichia coli, are monitored at the frequency specified in the permit. 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]	\$1,825	23-Dec-2009	18-May-2011	2.32	\$212	\$1,825	\$2,037
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs Estimated cost that was avoided by failing to analyze the required parameters at \$25 per week. Date required is the date the permit was issued. Final date is the investigation date.

Approx. Cost of Compliance \$2,075

TOTAL \$2,047

Screening Date	8-Aug-2011	Docket No.	2012-2343-MWD-E	PCW
Respondent	8 Mile Park, L.P.	Policy Revision 2 (September 2002)		
Case ID No.	45449	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN101614212			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0013796001, Operational Requirements No. 1			
Violation Description	Failed to properly operate and maintain all facilities and systems of treatment and control, as documented during an investigation conducted on May 18, 2011. Specifically, no belt guards were provided for the blowers.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5%
	Potential			x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					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 this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events: 1 82 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

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 \$500

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$57	Violation Final Penalty Total: \$838
This violation Final Assessed Penalty (adjusted for limits) \$838	

Economic Benefit Worksheet

Respondent 8 Mile Park, L.P.
Case ID No. 45449
Reg. Ent. Reference No. RN101614212
Media Violation No. Water Quality
 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)	\$1,200	18-May-2011	30-Apr-2012	0.95	\$57	n/a	\$57

Notes for DELAYED costs

Estimated cost to install belt guards on all blowers at the Facility. Required date 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

\$1,200

TOTAL

\$57

Compliance History

Customer/Respondent/Owner-Operator:	CN602860728 8 Mile Park, L.P.	Classification: AVERAGE	Rating: 3.30
Regulated Entity:	RN101614212 AUTUMN SHADOWS WWTP	Classification: AVERAGE	Site Rating: 3.30
ID Number(s):	WASTEWATER	PERMIT	WQ0013796001
	WASTEWATER	EPA ID	TX0091421
Location:	in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459 in Brazoria County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	8/8/2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 08, 2006 to August 08, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name: Steve Villatoro	Phone (512) 239-4930		

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 04/18/2011

ADMINORDER 2009-1829-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations and Monitoring Reg. PERMIT

Description: Failure to comply with permit effluent limits for total suspended solids, biochemical oxygen demand, and dissolved oxygen as documented by a TCEQ record review of self-reported data.

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.4

Rqmt Prov: Effluent Limitations and Monitoring Regu PERMIT

Description: Failed to collect and analyze samples for chlorine residual for the monitoring periods ending April 2008 through December 2008 and January 2009 through March 2009. Specifically, the Respondent reported on the discharge monitoring reports ("DMR") that no data was available for this parameter.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Provisions PERMIT

Description: Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008.

Classification: Minor

Citation: 30 TAC Chapter 317 317.7(e)

Description: Failed to provide an intruder-resistant fence and hazard signage.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)

Description: Failed to provide a reduced pressure zone ("RPZ") backflow prevention device or air gap on the main potable water line to the Facility,

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(g)

Rqmt Prov: Operational Requirements No. 1 PERMIT

Description: Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, a high level alarm was not installed and only one pump was working at the on-site lift station, as documented during the September 29, 2009 investigation.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(g)

Rqmt Prov: TPDES Permit No. 13796001, Op Reqs No 1 PERMIT

Description: Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, two and a half feet of settled sludge in a six foot water depth was measured in the chlorine contact chamber, the staff gauge installed was not legible, the V-notch weir was severely rusted and can no longer be used to accurately measure flow, the weirs on the clarifier were not level, and only one blower was operational at the Facility, as documented during the September 29, 2009 investigation.

Classification: Moderate

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

30 TAC Chapter 319, SubChapter A 319.7(a)

30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: Monitoring and Reporting Requirements PERMIT

Description: Failed to have all required monitoring and reporting records available for review upon request. Specifically, the DMRs were not available for review during the September 29, 2009 investigation.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: TPDES Permit No. 13796-001, Op Reqs No 1 PERMIT

Description: Failure to maintain operations and maintenance records. Specifically, the daily operator's log was not available for review during the September 29, 2009 investigation.

Classification: Minor

Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: TPDES Permit No 13796001, Other Req No 1 PERMIT

Description: Failed to employ a certified operator at the Facility a minimum of five days per week

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	9/20/2006	(512107)	11	5/18/2009	(771742)	21	5/8/2009	(771752)
2	9/14/2006	(526533)	12	5/7/2009	(771743)	22	5/8/2009	(771753)
3	9/14/2006	(526534)	13	5/8/2009	(771744)	23	6/11/2009	(771754)
4	11/20/2007	(596142)	14	5/18/2009	(771745)	24	5/8/2009	(771755)
5	10/5/2006	(625702)	15	5/8/2009	(771746)	25	5/8/2009	(771756)
6	4/14/2009	(741422)	16	5/27/2009	(771747)	26	5/8/2009	(771757)
7	10/22/2009	(749473)	17	5/8/2009	(771748)	27	12/11/2009	(782223)
8	3/16/2009	(759019)	18	5/8/2009	(771749)	28	2/23/2010	(815303)
9	5/7/2009	(771740)	19	5/8/2009	(771750)	29	7/20/2011	(900834)
10	5/18/2009	(771741)	20	6/11/2009	(771751)			

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

- 1 **Date: 8/31/2007 (771751) CN602860728**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
- 2 **Date: 10/31/2007 (771754) CN602860728**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
- 3 **Date: 11/20/2007 (596142) CN602860728**
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limitations and Monitoring PERMIT
 Description: Failure to maintain compliance with permitted effluent limits for biochemical oxygen demand (BOD) and total suspended solids (TSS).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Monitoring and Reporting Requirements PERMIT
 Description: Failure to submit monthly Discharge Monitoring Reports (DMRs).
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Monitoring and Reporting Requirements PERMIT
 Description: Failure to submit noncompliance notification for permit violations.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)
 Description: Failure to maintain the structural integrity of the wastewater plant.
- 4 **Date: 1/31/2008 (771740) CN602860728**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
- 5 **Date: 2/29/2008 (771743) CN602860728**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
- 6 **Date: 3/31/2008 (771744) CN602860728**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

7	Date: 6/30/2008	(771749)	CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
8	Date: 7/31/2008	(771750)	CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
9	Date: 8/31/2008	(771752)	CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
10	Date: 9/30/2008	(771753)	CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
11	Date: 10/31/2008		CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
12	Date: 12/31/2008		CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
13	Date: 1/31/2009		CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
14	Date: 2/28/2009		CN602860728	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
15	Date: 3/16/2009	(759019)	CN602860728	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
16 Date:	3/31/2009	(771745)	CN602860728
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

17 **Date:** 4/30/2009 **CN602860728**
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

18 **Date:** 1/31/2010 **CN602860728**
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	29-Oct-2012	Screening	31-Oct-2012	EPA Due	
	PCW	17-Jul-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	8 Mile Park, L.P.		
Reg. Ent. Ref. No.	RN101614212		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45449	No. of Violations	2
Docket No.	2012-2343-MWD-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** **\$16,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$4,062
Notes	Enhancement for one NOV with same/similar violations and one order with denial of liability.		
Culpability	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	\$63	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$600		

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$20,312**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
	Final Penalty Amount \$20,312

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$20,312**

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

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

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY **\$20,312**

Screening Date 31-Oct-2012

Docket No. 2012-2343-MWD-E

PCW

Respondent 8 Mile Park, L.P.

Policy Revision 3 (September 2011)

Case ID No. 45449

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101614212

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>)	1	5%
	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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 31-Oct-2012 **Docket No.** 2012-2343-MWD-E **PCW**
Respondent 8 Mile Park, L.P. *Policy Revision 3 (September 2011)*
Case ID No. 45449 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN101614212
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17) and 319.7(d), and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0013796001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on October 16, 2012. Specifically, the Respondent failed to submit discharge monitoring reports ("DMRs") for the monitoring periods ending August 31, 2011; September 30, 2011; October 31, 2011; November 30, 2011; December 31, 2011; January 31, 2012; February 29, 2012; March 31, 2012; April 30, 2012; May 31, 2012; June 30, 2012; and July 31, 2012, by the 20th day of the following month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 12 407 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Twelve monthly events are recommended, one for each DMR.

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 \$15,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$63 **Violation Final Penalty Total** \$18,750

This violation Final Assessed Penalty (adjusted for limits) \$18,750

Economic Benefit Worksheet

Respondent 8 Mile Park, L.P.
Case ID No. 45449
Reg. Ent. Reference No. RN101614212
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)	\$350	20-Sep-2011	31-May-2013	1.70	\$2	\$40	\$42
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	20-Sep-2011	31-May-2013	1.70	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to prepare and submit the DMRs (\$25 each) and annual sludge reports (\$50), update operational guidance, and conduct employee training. Date required is date the first 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 \$600

TOTAL \$63

Screening Date	31-Oct-2012	Docket No.	2012-2343-MWD-E	PCW
Respondent	8 Mile Park, L.P.	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	45449	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN101614212			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0013796001 Sludge Provisions			
Violation Description	Failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012, as documented during a record review conducted on October 16, 2012.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
		Major	Moderate		Minor
	Release				
	Actual			0.0%	
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

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

Adjustment \$23,750
 \$1,250

Violation Events

Number of Violation Events: 1 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,250

One annual 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: \$1,563
This violation Final Assessed Penalty (adjusted for limits) \$1,563	

Economic Benefit Worksheet

Respondent 8 Mile Park, L.P.
Case ID No. 45449
Reg. Ent. Reference No. RN101614212
Media Water Quality
Violation No. 2

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)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Violation No. 1

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

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 CN602860728, RN101614212, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602860728, 8 Mile Park, L.P. **Classification:** SATISFACTORY **Rating:** 53.00
Regulated Entity: RN101614212, AUTUMN SHADOWS WWTP **Classification:** SATISFACTORY **Rating:** 53.00
Complexity Points: 5 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities

Location: in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459 in Brazoria County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): **WASTEWATER** PERMIT WQ0013796001 **WASTEWATER** EPA ID TX0091421

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 9/1/2012

Date Compliance History Report Prepared: November 28, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 31, 2007 to October 31, 2012

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

Name: Steve Villatoro

Phone: (512) 239-4930

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: 04/18/2011 ADMINORDER 2009-1829-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations and Monitoring Req. PERMIT

Description: Failure to comply with permit effluent limits for total suspended solids, biochemical oxygen demand, and dissolved oxygen as documented by a TCEQ record review of self-reported data.

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.4

Rqmt Prov: Effluent Limitations and Monitoring Requ PERMIT

Description: Failed to collect and analyze samples for chlorine residual for the monitoring periods ending April 2008 through December 2008 and January 2009 through March 2009. Specifically, the Respondent reported on the discharge monitoring reports ("DMR") that no data was available for this parameter.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Provisions PERMIT

Description: Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008.

Classification: Minor

Citation: 30 TAC Chapter 317 317.7(e)

Description: Failed to provide an intruder-resistant fence and hazard signage.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)

Description: Failed to provide a reduced pressure zone ("RPZ") backflow prevention device or air gap on the main potable water line to the Facility.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(g)

Rqmt Prov: Operational Requirements No. 1 PERMIT

Description: Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, a high level alarm was not installed and only one pump was working at the on-site lift station.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.4(g)

Rqmt Prov: TPDES Permit No. 13796001, Op Reqs No 1 PERMIT

Description: Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, two and a half feet of settled sludge in a six foot water depth was measured in the chlorine contact chamber, the staff gauge installed was not legible, the V-notch weir was severely rusted and can no longer be used to accurately measure flow, the weirs on the clarifier were not level, and only one blower was operational at the Facility.

Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 319, SubChapter A 319.7(a)
 30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: Monitoring and Reporting Requirements PERMIT
 Description: Failed to have all required monitoring and reporting records available for review upon request. Specifically, the DMRs were not available for review during the September 29, 2009 investigation.

Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: TPDES Permit No. 13796-001, Op Reqs No 1 PERMIT

Description: Failure to maintain operations and maintenance records. Specifically, the daily operator's log was not available for review during the September 29, 2009 investigation.

Classification: Minor
 Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: TPDES Permit No 13796001, Other Req No 1 PERMIT

Description: Failed to employ a certified operator at the Facility a minimum of five days per week

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 May 08, 2009 (771746)

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.

1 Date: 2/24/2012 (982370) CN602860728

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limitations and Monitoring Req. PERMIT

Description: Failure to comply with permit effluent limits for total suspended solids, biochemical oxygen demand, and dissolved oxygen as documented by a TCEQ record review of self-reported data.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.4
 Effluent Limitations and Monitoring Reqs PERMIT

Description: Failed to collect and analyze samples for chlorine residual for the monitoring periods ending April 2008 through December 2008 and January 2009 through March 2009. Specifically, the Respondent reported on the discharge monitoring reports ("DMR") that no data was available for this parameter.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
 Sludge Provisions PERMIT

Description: Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 319, SubChapter A 319.7(a)
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Monitoring and Reporting Requirements PERMIT

Description: Failed to have all required monitoring and reporting records available for review upon request. Specifically, the DMRs were not available for review during the September 29, 2009 investigation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 TPDES Permit No. 13796-001, Op Reqs No 1 PERMIT

Description: Failure to maintain operations and maintenance records. Specifically, the daily operator's log was not available for review during the September 29, 2009 investigation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No 13796001, Other Req No 1 PERMIT

Description: Failed to employ a certified operator at the Facility a minimum of five days per week.

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
8 MILE PARK, L.P.;
RN101614212**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-2343-MWD-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is 8 Mile Park, L.P. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment plant located in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459 in Brazoria County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted on May 18, 2011, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to collect and analyze samples for *Escherichia coli*. Specifically, Respondent has not collected and analyzed any samples for *Escherichia coli* since the permit was issued on December 23, 2009; and
 - b. Failed to properly operate and maintain all facilities and systems of treatment and control. Specifically, no belt guards were provided for the blowers.
3. During an investigation conducted on October 16, 2012, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to submit monitoring results at the intervals specified in the permit. Specifically, Respondent failed to submit discharge monitoring reports ("DMRs") for the monitoring periods ending August 31, 2011; September 30, 2011; October 31, 2011; November 30, 2011; December 31, 2011; January 31, 2012; February 29, 2012; March 31, 2012; April 30, 2012; May 31, 2012; June 30, 2012; and July 31, 2012, by the 20th day of the following month; and
 - b. Failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012.
4. Respondent received notice of the violations in Findings of Fact Nos. 2.a. and 2.b. on or about July 25, 2011, and received notice of the violations in Findings of Fact Nos. 3.a. and 3.b. on or about October 30, 2012.

5. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of 8 Mile Park, L.P." (the "EDFARP") in the TCEQ Chief Clerk's office on December 19, 2013.
6. Respondent filed an answer requesting a hearing on May 20, 2013, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 1, 2013.
7. On April 4, 2014, the Administrative Law Judge ("ALJ") issued Order No. 7, which set the evidentiary hearing for May 30, 2014. The SOAH docket clerk mailed a copy of Order No. 7 to Respondent at its last known address via first class mail, postage pre-paid.
8. On May 30, 2014, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested that the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
9. On June 25, 2014, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 10, Dismissing Case and Remanding for Issuance of a Default Order, so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect and analyze samples for *Escherichia coli*, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4; and Texas Pollution Discharge Elimination System ("TPDES") Permit No. WQ0013796001, Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to properly operate and maintain all facilities and systems of treatment and control, in violation of 30 TEX. ADMIN. CODE § 305.125(5); and TPDES Permit No. WQ0013796001, Operational Requirements No. 1.
4. As evidenced by Finding of Fact No. 3.a., Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17) and 319.7(d); and TPDES No. WQ0013796001, Monitoring and Reporting Requirements No. 1.
5. As evidenced by Finding of Fact No. 3.b., Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 30, 2012, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.125(17); and TPDES No. WQ0013796001, Sludge Provisions.
4. As evidenced by Finding of Fact No. 6, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 7, Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.

6. As evidenced by Findings of Fact Nos. 8 and 9, Respondent failed to appear for the evidentiary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount forty-nine thousand six hundred forty-nine dollars (\$49,649.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of forty-nine thousand six hundred forty-nine dollars (\$49,649.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: 8 Mile Park, L.P.; Docket No. 2012-2343-MWD-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of completed, signed, and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0013796001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions;
 - ii. Update the Facility's operational guidance to ensure that all effluent parameters, including *Escherichia coli*, are monitored at the frequency specified in TPDES Permit No. WQ0013796001; and
 - iii. Submit the missing DMRs for the monitoring periods ending August 31, 2011; September 30, 2011; October 31, 2011; November 30, 2011;

December 31, 2011; January 31, 2012; February 29, 2012; March 31, 2012; April 30, 2012; May 31, 2012; June 30, 2012; and July 31, 2012, and the annual sludge report for the monitoring period ending July 31, 2012 to:

Compliance Monitoring Team
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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

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

and:

Stephen Smith, Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JEFFREY J. HUHN

STATE OF TEXAS

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COUNTY OF BEXAR

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of 8 Mile Park, L.P." (the "EDFARP") was filed in the TCEQ Chief Clerk's office on December 19, 2013.

Respondent filed an answer requesting a hearing on May 20, 2013, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 1, 2103. On April 4, 2014, the ALJ issued Order No.7, which set the evidentiary hearing for May 30, 2014. The SOAH docket clerk mailed a copy of Order No. 7 to Respondent at its last known address via first class mail, postage pre-paid.

Respondent failed to appear at the hearing on May 30, 2014. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing. I also requested the ALJ allow Respondent's representative two weeks to verify the reasons for his inability to attend the hearing and if such verification was not provided that the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 10, Dismissing Case and Remanding for Issuance of a Default Order, issued on June 25, 2014, so that TCEQ may dispose of this case on a default basis."

Jeffrey J. Huhn, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 22 day of July, A.D. 2014.

Notary Signature



Notary without Bond