

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48499  
TEXAS AIRSTREAM HARBOR, INC.  
RN103014445  
Docket No. 2014-0484-MWD-E

**Order Type:**

Agreed Order

**Media:**

Municipal Waste Discharge (MWD)

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

714 Angelina Street, approximately 0.5 mile northwest of State Highway 147 at a point approximately 300 feet southerly from the shoreline of Sam Rayburn Reservoir and approximately five miles northeast of Zavalla, Angelina County

**Type of Operation:**

wastewater treatment 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:** June 5, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$10,656

**Total Paid to General Revenue:** \$296

**Total Due to General Revenue:** \$10,360

Payment Plan: 35 monthly payments of \$296 each

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** March 6, 2014

**Date(s) of NOV(s):** September 30, 2013; November 30, 2013; March 26, 2014

**Date(s) of NOE(s):** March 20, 2014

**Violation Information**

1. Failed to submit a complete and accurate Discharge Monitoring Report (DMR) [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1].
2. Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and TPDES Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1].
3. Failed to comply with permitted effluent limitations [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); TPDES and Permit No. WQ0011895001, Effluent Limitations and Monitoring Requirements No. 1]

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Submit a corrected DMR for the monthly monitoring period ending in April 30, 2013, and the DMRs for the quarterly monitoring periods ending August 31, 2013 and November 30, 2013; and
  - b. 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 and quarterly DMRs.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 90 days, submit written certification to demonstrate compliance with permitted effluent limitations of TPDES Permit No. WQ0011895001, including specific actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

**Litigation Information**

**Date Petition(s) Filed:** March 3, 2015  
**Date Answer Filed:** N/A  
**Settlement Date:** May 4, 2015

**Contact Information**

**TCEQ Attorneys:** Ryan Rutledge, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Jacquelyn Green, Enforcement Division, (512) 239-2587

**TCEQ Regional Contact:** Ronald Hebert, Beaumont Regional Office, (512) 239-2670

**Respondent Contact:** Fred Richardson, President, TEXAS AIRSTREAM HARBOR, INC., 714 Angelina, Zavalla, Texas 75980

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	24-Mar-2014		
	<b>PCW</b>	19-Dec-2014	<b>Screening</b>	28-Mar-2014
			<b>EPA Due</b>	

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	TEXAS AIRSTREAM HARBOR, INC.		
<b>Reg. Ent. Ref. No.</b>	RN103014445		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48499	<b>No. of Violations</b>	3
<b>Docket No.</b>	2014-0484-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jacquelyn Green
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,875
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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.

<b>Compliance History</b>	55.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,781
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Notes: Enhancement for two months of self-reported effluent violations, one same/similar violations, and two orders with denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$938  
 Approx. Cost of Compliance: \$10,325  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$10,656
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$10,656
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,656
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$10,656
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**Screening Date** 28-Mar-2014

**Docket No.** 2014-0484-MWD-E

**PCW**

**Respondent** TEXAS AIRSTREAM HARBOR, INC.

Policy Revision 3 (September 2011)

**Case ID No.** 48499

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN103014445

**Media [Statute]** Water Quality

**Enf. Coordinator** Jacquelyn Green

### 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> )	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	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 judgments 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)** 55%

>> **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 two months of self-reported effluent violations, one same/similar violations, and two orders with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 55%

**Screening Date** 28-Mar-2014 **Docket No.** 2014-0484-MWD-E **PCW**  
**Respondent** TEXAS AIRSTREAM HARBOR, INC. *Policy Revision 3 (September 2011)*  
**Case ID No.** 48499 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN103014445  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jacquelyn Green

**Violation Number** 1  
**Rule Cite(s)** Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011895001, Effluent Limitations and Monitoring Requirements No. 1  
**Violation Description** Failed to comply with permitted effluent limitations, as documented in a record review conducted on March 6, 2014 and shown in the attached violation table.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	5.0%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

**Matrix Notes**  
 A simplified model was utilized to evaluate the values for five-day biochemical oxygen demand ("BOD<sub>5</sub>") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") were also evaluated. 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** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 3 88 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

Three quarterly events are recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th x)

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

**Violation Subtotal** \$3,750

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

Estimated EB Amount \$912 Violation Final Penalty Total \$5,813

**This violation Final Assessed Penalty (adjusted for limits)** \$5,813

**TEXAS AIRSTREAM HARBOR, INC.  
2014-0484-MWD-E  
Effluent Violation Table**

<b>Months:</b>	<b>BOD<sub>5</sub> Daily Avg. Conc.</b>	<b>TSS Daily Avg. Conc.</b>	<b>TSS Single Grab Conc.</b>
	<b>Limit = 10 mg/L</b>	<b>Limit = 15 mg/L</b>	<b>Limit = 60 mg/L</b>
<b>February 2013</b>	10.2	c	c
<b>September 2013</b>	c	113	113
<b>November 2013</b>	c	21	c

BOD<sub>5</sub> = five-day Biochemical Oxygen Demand  
 mg/L = milligrams per liter  
 TSS = Total Suspended Solids

Avg. = average  
 Conc. = concentration  
 c = compliant

# Economic Benefit Worksheet

**Respondent** TEXAS AIRSTREAM HARBOR, INC.  
**Case ID No.** 48499  
**Reg. Ent. Reference No.** RN103014445  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	28-Feb-2013	26-Dec-2014	1.82	\$912	n/a	\$912

Notes for DELAYED costs: Estimated cost to evaluate the cause of the non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the estimated date of compliance.

## Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$10,000

**TOTAL** \$912

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**Screening Date** 28-Mar-2014 **Docket No.** 2014-0484-MWD-E **PCW**  
**Respondent** TEXAS AIRSTREAM HARBOR, INC. *Policy Revision 3 (September 2011)*  
**Case ID No.** 48499 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN103014445  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jacquelyn Green

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1  
**Violation Description** Failed to submit a complete and accurate discharge monitoring report ("DMR") for the monitoring period ending April 30, 2013, as documented during a record review conducted on March 6, 2014. Specifically, the effluent monitoring results for BOD<sub>5</sub> and TSS daily average, loading, and single grab concentrations were not submitted by the 20th day of the following month.

**Base Penalty**

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

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

>> **Programmatic Matrix**

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

At least 70% of the rule requirements were not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="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** TEXAS AIRSTREAM HARBOR, INC.  
**Case ID No.** 48499  
**Reg. Ent. Reference No.** RN103014445  
**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	\$250	20-May-2013	26-Dec-2014	1.60	\$20	n/a	\$20
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)	\$75	20-May-2013	26-Dec-2014	1.60	\$6	n/a	\$6

Notes for DELAYED costs

Estimated costs to update the Facility's operational guidance and to conduct employee training (\$250) to ensure that the monitoring results are submitted at the intervals specified in the permit, and to prepare and submit the DMRs for the monitoring periods ending April, August, and November 2013 (\$25 per DMR). Date required is the date the first DMR was due. Final date is the estimated date of compliance to conduct employee training to submit the DMRs.

### 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

\$325

**TOTAL**

\$26

Screening Date 28-Mar-2014

Docket No. 2014-0484-MWD-E

PCW

Respondent TEXAS AIRSTREAM HARBOR, INC.

Policy Revision 3 (September 2011)

Case ID No. 48499

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103014445

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0011895001, 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 March 6, 2014. Specifically, the DMRs for Escherichia coli for the quarterly monitoring periods ending August 31, 2013 and November 30, 2013 were not submitted by the 20th day of the following month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

189 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Two single events are 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,875

This violation Final Assessed Penalty (adjusted for limits) \$3,875

# Economic Benefit Worksheet

**Respondent** TEXAS AIRSTREAM HARBOR, INC.  
**Case ID No.** 48499  
**Reg. Ent. Reference No.** RN103014445  
**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

The economic benefit is included in Violation No. 2.

### 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

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 CN602296022, RN103014445, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN602296022, TEXAS AIRSTREAM HARBOR, INC. **Classification:** SATISFACTORY **Rating:** 8.80

**Regulated Entity:** RN103014445, TEXAS AIR STREAM HARBOR **Classification:** SATISFACTORY **Rating:** 8.80

**Complexity Points:** 4 **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** 714 Angelina Street, approximately 0.5 mile northwest of State Highway 147 at a point approximately 300 feet southerly from the shoreline of Sam Rayburn Reservoir and approximately five miles northeast of Zavalla in Angelina County, Texas

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):** **WASTEWATER PERMIT** WQ0011895001 **WASTEWATER LICENSING LICENSE** WQ0011895001  
**WASTEWATER EPA ID** TX0068039

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** May 07, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 07, 2009 to May 07, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Jacquelyn Green **Phone:** (512) 239-2587

## 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: 12/18/2009 ADMINORDER 2009-1041-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 Limits PERMIT  
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.  
Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
Rqmt Prov: Effluent Reporting Requirements PERMIT  
Description: Failure to submit effluent monitoring results at the intervals specified in the permit.
- 2 Effective Date: 07/15/2012 ADMINORDER 2012-0246-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 LIMITS PERMIT  
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

### **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 21, 2009	(770597)	Item 23	April 18, 2011	(927534)
Item 2	June 16, 2009	(811552)	Item 24	May 16, 2011	(938854)
Item 3	July 17, 2009	(811553)	Item 25	July 18, 2011	(953497)
Item 4	September 01, 2009	(811554)	Item 26	August 22, 2011	(960128)
Item 5	September 22, 2009	(811555)	Item 27	September 19, 2011	(966180)
Item 6	October 22, 2009	(811556)	Item 28	November 16, 2011	(978361)
Item 7	November 23, 2009	(833257)	Item 29	January 03, 2012	(1080808)
Item 8	December 18, 2009	(811557)	Item 30	January 25, 2012	(991441)
Item 9	January 20, 2010	(811558)	Item 31	February 27, 2012	(998797)
Item 10	February 16, 2010	(811550)	Item 32	April 19, 2012	(1010885)
Item 11	March 17, 2010	(833254)	Item 33	May 25, 2012	(1017258)
Item 12	May 17, 2010	(833256)	Item 34	September 05, 2012	(1047712)
Item 13	June 14, 2010	(847011)	Item 35	October 24, 2012	(1065360)
Item 14	August 19, 2010	(867778)	Item 36	November 06, 2012	(1065358)
Item 15	September 20, 2010	(874736)	Item 37	November 30, 2012	(1065361)
Item 16	September 29, 2010	(867777)	Item 38	January 25, 2013	(1080809)
Item 17	October 27, 2010	(882324)	Item 39	March 04, 2013	(1080807)
Item 18	November 15, 2010	(888786)	Item 40	November 13, 2013	(1136163)
Item 19	December 15, 2010	(897137)	Item 41	December 16, 2013	(1141543)
Item 20	January 20, 2011	(903052)	Item 42	December 23, 2013	(1148000)
Item 21	February 14, 2011	(909919)	Item 43	January 30, 2014	(1154076)
Item 22	March 23, 2011	(917160)	Item 44	March 17, 2014	(1161402)

**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: 09/30/2013 (1147999) CN602296022**  
 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: 11/30/2013 (1148001) CN602296022**  
 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: 03/26/2014 (1152351) CN602296022**  
 Self Report? NO Classification: Moderate  
 Citation: OtR 6, Pg. 32 PERMIT  
 Description: Failure by Texas Air Stream Harbor to submit the annual sludge report to the TCEQ Region 10 Office and the TCEQ Water Quality Compliance Monitoring Team of the Enforcement Division by September 30 of each year.
- Self Report? NO Classification: Moderate  
 Citation: EL&MR 2, Pg. 2 PERMIT  
 Description: Failure by Texas Air Stream Harbor to comply with chlorine residual minimum effluent limitation of at least 1 mg/l after 20 minutes detention time.
- Self Report? NO Classification: Minor  
 Citation: M&RR 3b & 3c, Pg. 6 PERMIT  
 Description: Failure by Texas Air Stream Harbor to maintain records of monitoring activities and make records readily available for review by the TCEQ.
- Self Report? NO Classification: Minor  
 Citation: PC 1a, Pg. 9 PERMIT  
 Description: Failure by Texas Air Stream Harbor to submit accurate information in a report to the Executive Director.
- Self Report? NO Classification: Minor  
 Citation: M&RR 1, Pg. 5 PERMIT  
 Description: Failure by Texas Air Stream Harbor to submit the monthly effluent report each month to the Enforcement Division (MC 224) by the 20th day of the following month.
- Self Report? NO Classification: Minor  
 Citation: EL&MR 1, Pg. 2 PERMIT  
 Description: Failure by Texas Air Stream Harbor to collect and analyze effluent samples for biochemical oxygen demand and total suspended solids once per month.
- Self Report? NO Classification: Minor  
 Citation: M&RR 4, Pg. 6 PERMIT  
 Description: Failure by Texas Air Stream Harbor to use all results in the calculations and reporting when the permittee monitors pollutants more frequently that required by the permit.
- Self Report? NO Classification: Moderate  
 Citation: EL&MR 1, Pg. 2 PERMIT  
 Description: Failure by Texas Air Stream Harbor to comply with permit effluent limitations for biochemical oxygen demand and total suspended solids.
- Self Report? NO Classification: Minor  
 Citation: D&SPC 2ai, Pg. 3 PERMIT  
 Description: Failure by Texas Air Stream Harbor to correctly calculate the daily average concentration for biochemical oxygen demand and total suspended solids when 4 samples are not available in a calendar month.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TEXAS AIRSTREAM HARBOR, INC.;  
RN103014445**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2014-0484-MWD-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TEXAS AIRSTREAM HARBOR, INC. ("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 presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon Respondent.

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a wastewater treatment facility located at 714 Angelina Street, approximately 0.5 mile northwest of State Highway 147 at a point approximately 300 feet southerly from the shoreline of Sam Rayburn Reservoir and approximately five miles northeast of Zavalla in Angelina County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on March 6, 2014, TCEQ staff documented that Respondent violated the following requirements:
  - a. Failed to submit a complete and accurate Discharge Monitoring Report ("DMR") for the monitoring period ending April 30, 2013. Specifically, the effluent monitoring results for five-day Biochemical Oxygen Demand ("BOD<sub>5</sub>") and Total Suspended Solids ("TSS") daily average, loading, and single-grab concentrations were not submitted by the 20th day of the following month;
  - b. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the DMR's for *Escherichia coli* for the quarterly monitoring periods ending August 31, 2013 and November 30, 2013 were not submitted by the 20th day of the following month; and

- c. Failed to comply with permitted effluent limitations, as documented in the table below;

Months:	BOD <sub>5</sub> Daily Avg. Conc.	TSS Daily Avg. Conc.	TSS Single Grab Conc.
	Limit = 10 mg/L	Limit = 15 mg/L	Limit = 60 mg/L
February 2013	10.2	c	c
September 2013	c	113	113
November 2013	c	21	c

BOD<sub>5</sub> = five-day Biochemical Oxygen Demand  
mg/L = milligrams per liter  
TSS = Total Suspended Solids

Avg. = average  
Conc. = concentration  
c = compliant

### CONCLUSIONS OF LAW

- As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
- As evidenced by Finding of Fact No. 2.a., Respondent failed to submit a complete and accurate DMR, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1.
- As evidenced by Finding of Fact No. 2.b., Respondent 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 319.7(d); and TPDES Permit No. WQ0011895001, Monitoring and Reporting Requirements No. 1.
- As evidenced by Finding of Fact No. 2.c., Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0011895001, Effluent Limitations and Monitoring Requirements No. 1.
- Pursuant to TEX. WATER CODE § 7.051, TCEQ 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.
- An administrative penalty in the amount of ten thousand six hundred fifty-six dollars (\$10,656.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid two hundred ninety-six dollars (\$296.00) of the penalty. The remaining amount of ten thousand three hundred sixty dollars (\$10,360.00) of the penalty shall be payable in thirty-five (35) monthly payments of two hundred ninety-six dollars (\$296.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall 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 Order, including the payment schedule, 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, Respondent's failure to meet the payment schedule of this Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Order.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 6 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only 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 violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: TEXAS AIRSTREAM HARBOR, INC., Docket No. 2014-0484-MWD-E" to:

Financial Administration Division, Revenue Operations 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 Order:
    - i. Submit a corrected DMR for the monthly monitoring period ending in April 30, 2013, and the DMRs for the quarterly monitoring periods ending August 31, 2013 and November 30, 2013 to:

Compliance Monitoring Section  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
    - ii. 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 and quarterly DMRs, in accordance with TPDES Permit No. WQ0011895001.
  - b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.d. below, to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii.
  - c. Within 90 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.d. below, to demonstrate compliance with permitted effluent limitations of TPDES Permit No. WQ0011895001, including specific actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
  - d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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:

Waste 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 Order is denied.
4. 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.
5. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
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. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further

- enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
  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. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
  11. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Morgan Flournoy  
\_\_\_\_\_  
For the Executive Director

July 2, 2015  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

Fred Richardson, President

May 4, 2015  
Date

Signature - ~~Morgan Flournoy~~, President  
TEXAS AIRSTREAM HARBOR, INC.  
714 Angelina  
Zavalla, TX 75980

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_