

Executive Summary – Enforcement Matter – Case No. 48295
Bayshore Industrial, LLC
RN101613370
Docket No. 2014-0262-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Bayshore Industrial WWPP, 1300 McCabe Road, approximately 850 feet west of the intersection of McCabe Road and State Highway 146, three miles south of La Porte, Harris County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 4, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,375

Amount Deferred for Expedited Settlement: \$2,475

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,900

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Bayshore Industrial, LLC
RN101613370
Docket No. 2014-0262-IWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: December 17, 2013
Date(s) of NOE(s): January 31, 2014

Violation Information

Failed to comply with permitted effluent limitations for total zinc, total suspended solids, pH, and biochemical oxygen demand (5-day) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003608000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 180 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0003608000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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Bayshore Industrial, LLC
RN101613370
Docket No. 2014-0262-IWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Katie Hargrove, Enforcement Division,
Enforcement Team 3, MC 149, (512) 239-2569; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Chuck Hampton, BU Director - MBS, Bayshore Industrial, LLC, 3637
Ridgewood Road, Fairlawn, Ohio 44333

Joseph Gingo, President, Bayshore Industrial, LLC, 3637 Ridgewood Road, Fairlawn,
Ohio 44333

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Feb-2014	Screening	18-Feb-2014	EPA Due	
	PCW	28-May-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	Bayshore Industrial, LLC
Reg. Ent. Ref. No.	RN101613370
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	48295	Order Type	1660
Docket No.	2014-0262-IWD-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Katie Hargrove
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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	65.0% Enhancement	Subtotals 2, 3, & 7	\$4,875
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Notes: Enhancement for nine months of self-reported effluent violations and one agreed order with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$707; Approx. Cost of Compliance: \$10,000; *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$12,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,375
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,475
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,900
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Screening Date 18-Feb-2014

Docket No. 2014-0262-IWD-E

PCW

Respondent Bayshore Industrial, LLC

Policy Revision 3 (September 2011)

Case ID No. 48295

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613370

Media [Statute] Water Quality

Enf. Coordinator Katie Hargrove

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>)	9	45%
	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) 65%

>> **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 nine months of self-reported effluent violations and one agreed order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 65%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 65%

Screening Date 18-Feb-2014

Docket No. 2014-0262-IWD-E

PCW

Respondent Bayshore Industrial, LLC

Policy Revision 3 (September 2011)

Case ID No. 48295

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613370

Media [Statute] Water Quality

Enf. Coordinator Katie Hargrove

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. WQ0003608000, Effluent Limitations and Monitoring Requirements Nos. 1 & 2

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on December 17, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) and total zinc, to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and pH were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

211 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 for the quarters containing the months of February 2013 through June 2013 and August 2013 through September 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$707

Violation Final Penalty Total \$6,188

This violation Final Assessed Penalty (adjusted for limits) \$6,188

Economic Benefit Worksheet

Respondent Bayshore Industrial, LLC
Case ID No. 48295
Reg. Ent. Reference No. RN101613370
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	31-Jan-2013	1-Jul-2014	1.41	\$707	n/a	\$707

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$707

Screening Date 18-Feb-2014

Docket No. 2014-0262-IWD-E

PCW

Respondent Bayshore Industrial, LLC

Policy Revision 3 (September 2011)

Case ID No. 48295

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613370

Media [Statute] Water Quality

Enf. Coordinator Katie Hargrove

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0003608000, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on December 17, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate total zinc to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One monthly event is recommended for the month of January 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,188

This violation Final Assessed Penalty (adjusted for limits) \$6,188

Economic Benefit Worksheet

Respondent Bayshore Industrial, LLC
Case ID No. 48295
Reg. Ent. Reference No. RN101613370
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

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 \$0

TOTAL \$0

Bayshore Industrial, LLC
Docket No. 2014-0262-IWD-E
TPDES Permit No. WQ0003608000

Effluent Parameter Violation Table

	Total Zinc				Total Suspended Solids			BOD	pH
	Daily Max. Conc.	Daily Avg. Load.	Daily Max. Load.	Daily Avg. Conc.	Daily Avg. Conc.	Daily Max Conc.	Daily Max Load.	Daily Avg. Conc.	Max.
Month/Year	Limit = 0.179 mg/L	Limit = 0.089 lb/d	Limit = 0.187 lb/d	Limit = 0.085 mg/L	Limit = 12 mg/L	Limit = 27 mg/L	Limit = 28.35 lb/d	Limit = 5 mg/L	Limit = 9 SU
January 2013	0.301	0.138	0.453	0.179	c	c	c	c	c
February 2013	c	c	c	0.087	c	c	c	6.25	c
March 2013	c	c	c	0.089	c	c	c	c	c
April 2013	c	c	c	0.091	c	c	c	5.75	c
May 2013	c	c	c	c	c	c	c	6.22	c
June 2013	0.218	c	0.242	0.092	17.5	28	31.06	5.5	c
August 2013	c	c	c	0.098	c	c	c	c	9.09
September 2013	c	c	c	0.0953	c	c	c	c	c

c = compliant
 lb/d = pounds per day
 Avg. = average

mg/L = milligrams per liter
 Max. = maximum
 Load. = loading

BOD = Biochemical Oxygen Demand (5- day)
 Conc. = Concentration
 SU= Standard Units

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.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN602792830, RN101613370, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN602792830, Bayshore Industrial, LLC **Classification:** SATISFACTORY **Rating:** 3.85

Regulated Entity: RN101613370, BAYSHORE INDUSTRIAL WWPP **Classification:** SATISFACTORY **Rating:** 3.85

Complexity Points: 13 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: LOCATED AT 1300 MCCABE ROAD, APPROXIMATELY 850 FEET WEST OF THE INTERSECTION OF MCCABE ROAD AND STATE HIGHWAY 146, THREE MILES SOUTH OF THE CITY OF LA PORTE, HARRIS COUNTY, TEXAS.

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER PERMIT WQ0003608000	WASTEWATER EPA ID TX0111350
AIR NEW SOURCE PERMITS REGISTRATION 7807	AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0896G
AIR NEW SOURCE PERMITS AFS NUM 4820101004	AIR NEW SOURCE PERMITS REGISTRATION 75051
AIR NEW SOURCE PERMITS REGISTRATION 96437	POLLUTION PREVENTION PLANNING ID NUMBER P07402
STORMWATER PERMIT TXR05AS18	INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXP490351512

INDUSTRIAL AND HAZARDOUS WASTE OTS REQUEST 36775

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

Date Compliance History Report Prepared: February 13, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 13, 2009 to February 13, 2014

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

Name: Katie Hargrove

Phone: (512) 239-2569

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: 10/15/2010 ADMINORDER 2010-0307-IWD-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failed 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	December 03, 2009	(929824)
Item 2	June 21, 2010	(847690)
Item 3	May 14, 2012	(1018070)
Item 4	July 11, 2012	(1033164)
Item 5	August 07, 2012	(1039677)
Item 6	November 06, 2012	(1069056)
Item 7	December 10, 2012	(1069057)
Item 8	December 17, 2012	(1069055)
Item 9	January 11, 2013	(1082550)
Item 10	August 27, 2013	(1126658)

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: 02/28/2013 (1091018)	CN602792830	
	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: 03/31/2013 (1097350)	CN602792830	
	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: 04/30/2013 (1108377)	CN602792830	
	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		
4	Date: 05/31/2013 (1111960)	CN602792830	
	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: 06/30/2013 (1118893)	CN602792830	
	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: 08/31/2013 (1131193)	CN602792830	
	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: 09/30/2013 (1136947)	CN602792830	
	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: 10/31/2013 (1142367) CN602792830
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: 11/30/2013 (1148805) CN602792830
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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BAYSHORE INDUSTRIAL, LLC
RN101613370**

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

**AGREED ORDER
DOCKET NO. 2014-0262-IWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bayshore Industrial, LLC ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 1300 McCabe Road, approximately 850 feet west of the intersection of McCabe Road and State Highway 146, three miles south of La Porte, Harris County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 5, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Three Hundred Seventy-Five Dollars (\$12,375) is assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Nine Hundred Dollars (\$9,900) of the administrative penalty and Two Thousand Four Hundred Seventy-Five Dollars (\$2,475) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have 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 Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003608000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on December 17, 2013, and shown in the table below:

Effluent Parameter Violation Table									
	Total Zinc				Total Suspended Solids			BOD	pH
	Daily Max. Conc.	Daily Avg. Load.	Daily Max. Load.	Daily Avg. Conc.	Daily Avg. Conc.	Daily Max Conc.	Daily Max Load.	Daily Avg. Conc.	Max.
Month/ Year	Limit = 0.179 mg/L	Limit = 0.089 lb/d	Limit = 0.187 lb/d	Limit = 0.085 mg/L	Limit = 12 mg/L	Limit = 27 mg/L	Limit = 28.35 lb/d	Limit = 5 mg/L	Limit = 9 SU
January 2013	0.301	0.138	0.453	0.179	c	c	c	c	c
February 2013	c	c	c	0.087	c	c	c	6.25	c
March 2013	c	c	c	0.089	c	c	c	c	c
April 2013	c	c	c	0.091	c	c	c	5.75	c
May 2013	c	c	c	c	c	c	c	6.22	c
June 2013	0.218	c	0.242	0.092	17.5	28	31.06	5.5	c
August 2013	c	c	c	0.098	c	c	c	c	9.09
September 2013	c	c	c	0.0953	c	c	c	c	c

c = compliant
lb/d = pounds per day
Avg. = average

mg/L = milligrams per
liter
Max. = maximum
Load. = loading

BOD = Biochemical Oxygen Demand (5-
day)
Conc. = Concentration
SU= Standard Units

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bayshore Industrial, LLC, Docket No. 2014-0262-IWD-E" to:

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

2. It is further ordered that the Respondent shall, within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0003608000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

"writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

9/25/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

June 9, 2014
Date

Chuck Hampton
Name (Printed or typed)
Authorized Representative of
Bayshore Industrial, LLC

BU Director - MBS
Title

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