

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

2547 North United States Highway 77, near Driscoll, Nueces County

Type of Operation:

wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions:	2021-0804-MWD-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third Parties:	None

Texas Register Publication Date: April 15, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$47,138

Total Paid to General Revenue: \$1,323

Total Due to General Revenue: \$45,815

35 payments of \$1,309 each

Compliance History Classifications:

Person/CN – SATISFACTORY
Site/RN – SATISFACTORY

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: July 22, 2019

Date(s) of NOV(s): January 31, 2020; February 29, 2020

Date(s) of NOE(s): September 10, 2019

KB FOUNDATION OF TEXAS

RN102179124

Docket No. 2019-1493-MWD-E

Violation Information

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0014981001, Operational Requirement No. 1 and Other Requirement No. 9].
2. Failed to calibrate as often as necessary to ensure accuracy but not less than annually all automatic flow measuring or recording devices and all totalizing meters for measuring flow [30 TEX. ADMIN. CODE §§ 217.33(a) and 305.125(1), and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirement No. 5].
3. Failed to timely submit monitoring results at intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirement No. 1].
4. Failed to report to the TCEQ in writing any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirement No. 7.c.].
5. Failed to prevent the discharge of floating solids or visible foam in other than trace amounts [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0014981001, Effluent Limitation and Monitoring Requirement No. 4].
6. Failed to submit to the TCEQ Wastewater Permitting Section a summary submittal letter in accordance with 30 TEX. ADMIN. CODE § 217.6(c) as required in the permit [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirement No. 7].
7. Failed to route the wastewater generated from the restaurant kitchen through a grease trap [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirement No. 8].
8. Failed to submit quarterly progress reports regarding the repair or construction of treatment units necessary to maintain compliance with effluent limitations for total suspended solids (“TSS”) and *E. coli* [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirement No. 10].
9. Failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0014981001, Permit Condition No. 2.d.].
10. Failed to properly analyze effluent samples according to the permit [30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, 319.9(d), and 319.11(c), and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirement No. 2.a.].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. Submitted the discharge monitoring report for December 2018, on January 21, 2019 (Violation No. 3).
2. Began to compensate for the effects of manganese and perform duplicates for the dissolved oxygen analysis when analyzing effluent samples, as of August 1, 2019 (Violation No. 10).
3. Sufficiently calibrated the Facility’s secondary flow measuring device (Siemens Milltronics OCM III), on June 24, 2020 (Violation No. 2).
4. Installed a grease trap in the Facility’s restaurant kitchen, on or by November 6, 2020 (Violation No. 7).

Technical Requirements:

1. Within 30 days after the effective date of this Order:
 - a. Implement procedures and conduct employee training to ensure:
 - i. The necessary process control tests are performed to effectively operate the Facility (Violation No. 1);
 - ii. Preparation and proper submission of quarterly progress reports for the repair or construction of treatment units necessary to maintain compliance with effluent limitations for TSS and *E. coli* (Violation No. 8); and
 - iii. Reporting to the TCEQ Corpus Christi Regional Office and Enforcement Division of any effluent violation that deviates from the permitted effluent limitation by more than 40%, within 5 working days of becoming aware of the noncompliance (Violation No. 4); and
 - b. Submit a summary transmittal letter (Violation No. 6).
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. and 1.b.
3. Within 60 days:
 - a. Install scum baffles and a means for scum collection and disposal on the clarifier unit, and level the clarifier effluent weir (Violation No. 1);
 - b. Remove the excess sludge and algae from the clarifier and the chlorine contact chamber (Violation No. 1);
 - c. Begin use of chlorination tablets that are EPA-approved and labeled for wastewater disinfection (Violation No. 1);
 - d. Develop and implement a solids management plan and schedule that includes regular examination of wastewater solids within the Facility, process control testing, and the regular removal of solids to prevent the discharge of solids, sludge, and grease (Violations Nos. 1, 5, and 9); and
 - e. Remove and properly dispose of the sludge around the Outfall 001 discharge pipe and from the receiving ditch (Violation No. 9).
4. Within 75 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 3.a. through 3.e.

Litigation Information

Date Petition(s) Filed: August 9, 2021
Date Answer(s) Filed: September 20, 2021
Settlement Date: February 10, 2022

Contact Information

TCEQ Attorneys: Jess Robinson, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Caleb Olson, Enforcement, (817) 588-5856
TCEQ Regional Contact: Melanie Edwards, Corpus Christi Regional Office, (361) 881-6900
Respondent Contact: Karam Boulos, Director, KB FOUNDATION OF TEXAS, 2925 Clifford Street, Harlingen, Texas 78550
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	16-Sep-2019	Screening	3-Oct-2019	EPA Due	
	PCW	3-Aug-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	KB FOUNDATION OF TEXAS	
Reg. Ent. Ref. No.	RN102179124	
Facility/Site Region	14-Corpus Christi	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	58459	No. of Violations	10
Docket No.	2019-1493-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Caleb Olson
		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** **\$36,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **30.0%** Adjustment **Subtotals 2, 3, & 7** **\$10,950**

Notes: Enhancement for two months of self-reported effluent violations and one order containing 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** **-\$312**

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

Total EB Amounts **\$2,297**
 Estimated Cost of Compliance **\$29,626**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$47,138**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$47,138**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$47,138**

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

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$47,138**

Screening Date 3-Oct-2019

Docket No. 2019-1493-MWD-E

PCW

Respondent KB FOUNDATION OF TEXAS

Policy Revision 4 (April 2014)

Case ID No. 58459

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102179124

Media Water Quality

Enf. Coordinator Caleb Olson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	2	10%
	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 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%
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) 30%

>> 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 and one order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 3-Oct-2019

Docket No. 2019-1493-MWD-E

PCW

Respondent KB FOUNDATION OF TEXAS

Policy Revision 4 (April 2014)

Case ID No. 58459

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102179124

Media Water Quality

Enf. Coordinator Caleb Olson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014981001, Operational Requirements No. 1 and Other Requirements No. 9

Violation Description Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the clarifier unit was not equipped with scum baffles and a means for scum collection and disposal and exhibited uneven flow over the weir. Additionally, an excessive accumulation of algae and sludge was observed in the clarifier and chlorine contact basin. Furthermore, the Respondent was using chemical disinfection tablets (Clorox Pool & Spa Active 99) that were not approved by the United States Environmental Protection Agency ("EPA") or the manufacturer for the purpose of wastewater disinfection.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 73

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (July 22, 2019) to the screening date (October 3, 2019).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Effort Type (Extraordinary, Ordinary, N/A) and checkboxes.

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 \$798

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
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	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$7,500	22-Jul-2019	25-Sep-2020	1.18	\$30	\$590	\$620
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	\$2,500	22-Jul-2019	25-Sep-2020	1.18	\$148	n/a	\$148
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	22-Jul-2019	25-Sep-2020	1.18	\$30	n/a	\$30

Notes for DELAYED costs

The equipment cost is the estimated cost to install scum baffles and means for scum collection and disposal on the clarifier unit, and level the clarifier effluent weir. Date required is the investigation date. Final date is the estimated date of compliance.

The remediation/disposal cost is the estimated cost to remove the excess sludge and algae from the clarifier and chlorine contact chamber. Date required is the investigation date. Final date is the estimated date of compliance.

The other cost is the estimated cost to begin use of chlorination tablets that are EPA approved and labeled for wastewater disinfection. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,500

TOTAL

\$798

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 217.33(a) and 305.125(1) and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirements No. 5

Violation Description

Failed to calibrate as often as necessary to ensure accuracy but not less than annually all automatic flow measuring or recording devices and all totalizing meters for measuring flow. Specifically, the flow accuracy check between the primary measuring device (22.5-degree V-notch weir) and the secondary flow measuring device (Siemens Milltronics OCM III) was calculated with a percent error of 50.8%, above the 10% margin of error.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5.0%
Potential		x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 73 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (July 22, 2019) to the screening date (October 3, 2019).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	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 \$23

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
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	Costs Saved	EB Amount
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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)	\$500	22-Jul-2019	24-Jun-2020	0.93	\$23	n/a	\$23

Notes for DELAYED costs

Estimated cost to calibrate the automatic flow measuring devices and all totalizing meters for measuring flow within a 10% error rate by a person appropriately trained. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$23

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit monitoring results at intervals specified in the permit. Specifically, the discharge monitoring report ("DMR") for December 2018 was 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 1.0%

Matrix Notes

Less than 30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
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	Costs Saved	EB Amount
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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)	\$250	20-Jan-2019	21-Jan-2019	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the December 2018 DMR. Date required is the date the DMR was due. Final date is the date the DMR was submitted.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$0

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (9)(A) and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirements No. 7(c)

Violation Description

Failed to report to the TCEQ in writing, any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of noncompliance. Specifically, the Respondent exceeded the total suspended solids ("TSS") daily average effluent limit by greater than 40% in October 2018 and December 2018, and the TSS single grab effluent limit by more than 40% in December 2018, and did not report these effluent violations to the TCEQ.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

100% of the rule requirements were not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Two single events are recommended, one for each notification.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/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"/>	<input type="text"/>

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 KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

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	22-Jul-2019	26-Aug-2020	1.10	\$14	n/a	\$14
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 training/sampling cost is the estimated cost to implement procedures and conduct employee training to ensure that noncompliance notifications for any effluent violation that deviates from the permitted effluent limitations by more than 40% and quarterly progress reports for the repair or construction of treatment units necessary to maintain compliance with TSS and *Escherichia coli* ("*E. coli*") are prepared and submitted in a timely manner. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$50	25-Jan-2019	3-Oct-2019	0.69	\$2	\$50	\$52
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to prepare and submit the noncompliance notifications (\$25 x 2 notifications). Date required is the date the final notification was due. Final date is the screening date.

Approx. Cost of Compliance

\$300

TOTAL

\$66

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0014981001, Effluent Limitations and Monitoring Requirements No. 4

Violation Description Failed to prevent the discharge of floating solids or visible foam in other than trace amounts. Specifically, floating solids, such as plastic wrappers and sludge were observed discharging into the receiving ditch from the Outfall 001 discharge pipe.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	5.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that 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 1 73 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date (July 22, 2019) to the screening date (October 3, 2019).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	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 \$414

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	22-Jul-2019	25-Sep-2020	1.18	\$20	\$394	\$414
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a solids management plan and schedule which includes the regular examination of wastewater solids within the Facility, process control testing, and the regular removal of solids to prevent the discharge of solids, sludge and grease. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$414

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirements No. 7

Violation Description Failed to submit to the TCEQ Wastewater Permitting Section a summary submittal letter in accordance with 30 Tex. Admin. Code § 217.6(c) as required in the permit.

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 rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 304 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	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 \$22

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

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	\$250	3-Dec-2018	26-Aug-2020	1.73	\$22	n/a	\$22
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a summary submittal letter to the TCEQ Wastewater Permitting Section. Date required is 60 days after the permit was transferred. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$22

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirements No. 8

Violation Description Failed to route the wastewater generated from the restaurant kitchen through a grease trap. Specifically, the Facility did not have a grease trap installed.

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 that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the investigation date (July 22, 2019) to the screening date (October 3, 2019).

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/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"/>	<input type="text"/>

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 KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	22-Jul-2019	6-Nov-2020	1.30	\$22	\$432	\$454
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a grease trap for the restaurant kitchen. Date required is the investigation date.
Final date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$454

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirements No. 10

Violation Description

Failed to submit quarterly progress reports regarding the repair or construction of treatment units necessary to maintain compliance with permitted effluent limitations for TSS and *E. coli*. Specifically, the Respondent did not submit the quarterly progress reports due on January 1, 2019, April 1, 2019, and July 1, 2019

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3 275 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

Three single events are recommended, one for each report.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	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 \$77

Violation Final Penalty Total \$4,875

This violation Final Assessed Penalty (adjusted for limits) \$4,875

Economic Benefit Worksheet

Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

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. 4.							

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$76	1-Jul-2019	3-Oct-2019	0.26	\$1	\$76	\$77
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs Estimated avoided cost to prepare and submit the quarterly progress reports (\$25 x three reports + accrued interest). Date required is the date the final report was due. Final date is the screening date.							

Approx. Cost of Compliance

\$76

TOTAL

\$77

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0014981001, Permit Conditions No. 2.d

Violation Description

Failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, approximately four to twelve inches of sludge was observed around the Outfall 001 discharge pipe and throughout the receiving ditch. Also, an abundance of bloodworms were observed in the receiving ditch upstream of Petronila Creek.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="30.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Three monthly events are recommended from the investigation date (July 22, 2019) to the screening date (October 3, 2019).

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

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 KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	\$7,500	22-Jul-2019	25-Sep-2020	1.18	\$443	n/a	\$443
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Engineering/Construction delayed cost is captured in the Economic Benefit for Violation No. 5.

Estimated cost to remove and properly dispose of the sludge around the outfall discharge pipe and the receiving ditch. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,500

TOTAL

\$443

Screening Date 3-Oct-2019
Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Enf. Coordinator Caleb Olson

Docket No. 2019-1493-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1). 319.6, 319.9(d), and 319.11(c) and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirements No. 2.a

Violation Description

Failed to properly analyze effluent samples according to the permit. Specifically, the Respondent was not following the manufacturer's instruction on the proper use of the Hach Pocket Colorimeter II (DPD Method equivalent to USEPA method 333.5) to obtain the total chlorine concentration and was not compensating for the effects of manganese. Additionally, the Respondent was not performing duplicates for the dissolved oxygen analysis.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 10 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on August 1, 2019.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent KB FOUNDATION OF TEXAS
Case ID No. 58459
Reg. Ent. Reference No. RN102179124
Media Water Quality
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

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

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	22-Jul-2019	1-Aug-2019	0.03	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement procedures to ensure the total chlorine concentration is properly calculated and duplicates are performed for dissolved oxygen analysis. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

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

Compliance History Report for CN605576271, RN102179124, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605576271, KB FOUNDATION OF TEXAS **Classification:** SATISFACTORY **Rating:** 32.00

Regulated Entity: RN102179124, BCFS DRISCOLL HEALTH & HUMAN SERVICES WWTP **Classification:** SATISFACTORY **Rating:** 32.00

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

CH Group: 14 - Other

Location: 2547 North United States Highway 77 in Nueces County, Texas

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s): **WASTEWATER** EPA ID TX0064408 **WASTEWATER** PERMIT WQ0014981002

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: August 03, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 15, 2015 to May 15, 2020

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

Name: Caleb Olson

Phone: (817) 588-5856

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? YES
- 3) Who is the current owner/operator? KB FOUNDATION OF TEXAS OWNER since 10/4/2018
- 4) Who was/were the prior owner(s)/operator(s)? Ies Children And Family Services, Inc., OWNER, 6/27/2013 to 10/3/2018

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 05/13/2019 ADMINORDER 2015-0851-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: Operational Requirements; No.4, Pg.10 PERMIT
Description: Failed to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: Operational Requirements; No. 1, Pg. 9 PERMIT
Description: Failed to properly operate and maintain the Facility and all of its systems of collection, treatment, and disposal
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(a)(1)
30 TAC Chapter 319, SubChapter A 319.7(a)(2)
30 TAC Chapter 319, SubChapter A 319.7(a)(3)
30 TAC Chapter 319, SubChapter A 319.7(a)(5)
Rqmt Prov: Monitoring Requirements No. 3(c), Pg. 5 PERMIT
Description: Failed to maintain complete records of monitoring activities
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(c)
30 TAC Chapter 319, SubChapter A 319.9(d)
40 CFR Chapter 136, SubChapter D, PT 136 136.1
Rqmt Prov: Definitions: 2.f., Pg. 4 PERMIT
Monitor & Report Req., No. 2, Pg. 4 PERMIT
Description: Failed to analyze effluent samples as specified by the permit
Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.1
30 TAC Chapter 319, SubChapter A 319.4
30 TAC Chapter 319, SubChapter A 319.5(a)

Rqmt Prov: Monitoring & Reporting Req.; No. 1, Pg. 4 PERMIT

Description: Failed to collect and analyze effluent at the intervals specified in the permit

Classification: Moderate

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

Rqmt Prov: Effluent Limitations; No. 1, Pg. 2 PERMIT

Description: Failed to comply with the effluent limits

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	October 02, 2015	(1292523)	Item 17	April 18, 2018	(1495892)
Item 2	January 06, 2016	(1311123)	Item 18	December 12, 2018	(1547390)
Item 3	March 23, 2016	(1334036)	Item 19	February 20, 2019	(1566385)
Item 4	April 29, 2016	(1341166)	Item 20	March 20, 2019	(1566386)
Item 5	June 24, 2016	(1354399)	Item 21	April 20, 2019	(1574052)
Item 6	November 22, 2016	(1386640)	Item 22	May 20, 2019	(1587671)
Item 7	December 19, 2016	(1392766)	Item 23	June 18, 2019	(1587672)
Item 8	January 24, 2017	(1399385)	Item 24	July 20, 2019	(1595419)
Item 9	March 22, 2017	(1413403)	Item 25	August 19, 2019	(1601683)
Item 10	April 10, 2017	(1419850)	Item 26	September 15, 2019	(1608588)
Item 11	June 18, 2017	(1433512)	Item 27	October 20, 2019	(1615464)
Item 12	July 16, 2017	(1442070)	Item 28	November 20, 2019	(1621265)
Item 13	August 23, 2017	(1445738)	Item 29	December 20, 2019	(1628603)
Item 14	November 20, 2017	(1463633)	Item 30	January 19, 2020	(1636223)
Item 15	December 22, 2017	(1470085)	Item 31	April 19, 2020	(1655714)
Item 16	March 20, 2018	(1492586)			

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: 01/31/2020 (1642844)			
	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: 02/29/2020 (1649349)			
	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
KB FOUNDATION OF TEXAS;
RN102179124

§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2019-1493-MWD-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding KB FOUNDATION OF TEXAS ("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 it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

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 2547 North U.S. Highway 77, approximately two miles north of the intersection of Farm-to-Market Road 665 and U.S. Highway 77 near Driscoll, Nueces County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted on and around July 22, 2019, an investigator documented that Respondent:
 - a. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the clarifier unit was not equipped with scum baffles and a means for scum collection and disposal and exhibited uneven flow over the weir. Additionally, an excessive accumulation of algae and sludge was observed in the clarifier and chlorine contact basin. Furthermore, Respondent was using chemical disinfection tablets (Clorox Pool & Spa Active 99) that were not approved by the United States Environmental Protection Agency ("EPA") or the manufacturer for the purpose of wastewater disinfection;

- b. Failed to calibrate as often as necessary to ensure accuracy but not less than annually all automatic flow measuring or recording devices and all totalizing meters for measuring flow. Specifically, the flow accuracy check between the primary measuring device (22.5-degree V-notch weir) and the secondary flow measuring device (Siemens Milltronics OCM III) was calculated with a percent error of 50.8%, above the 10% margin of error;
 - c. Failed to timely submit monitoring results at intervals specified in the permit. Specifically, the discharge monitoring report (“DMR”) for December 2018 was not submitted by the 20th day of the following month;
 - d. Failed to report to the TCEQ in writing any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance. Specifically, Respondent exceeded the total suspended solids (“TSS”) daily average effluent limit by greater than 40% in October 2018 and December 2018, and the TSS single grab effluent limit by more than 40% in December 2018, and did not report these effluent violations to the TCEQ;
 - e. Failed to prevent the discharge of floating solids or visible foam in other than trace amounts. Specifically, floating solids, such as plastic wrappers and sludge were observed discharging into the receiving ditch from the Outfall 001 discharge pipe;
 - f. Failed to submit to the TCEQ Wastewater Permitting Section a summary submittal letter in accordance with 30 TEX. ADMIN. CODE § 217.6(c) as required in the permit;
 - g. Failed to route the wastewater generated from the restaurant kitchen through a grease trap. Specifically, the Facility did not have a grease trap installed;
 - h. Failed to submit quarterly progress reports regarding the repair or construction of treatment units necessary to maintain compliance with effluent limitations for TSS and *E. coli*. Specifically, Respondent did not submit the quarterly progress reports due on January 1, 2019, April 1, 2019, and July 1, 2019;
 - i. Failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, approximately four to twelve inches of sludge were observed around the Outfall 001 discharge pipe and throughout the receiving ditch. Also, an abundance of bloodworms was observed in the receiving ditch upstream of Petronila Creek; and
 - j. Failed to properly analyze effluent samples according to the permit. Specifically, Respondent was not following the manufacturer’s instruction on the proper use of the Hach Pocket Colorimeter II (DPD Method equivalent to USEPA method 333.5) to obtain the total chlorine concentration and was not compensating for the effects of manganese. Additionally, Respondent was not performing duplicates for the dissolved oxygen analysis.
3. The Executive Director recognizes that Respondent implemented the following corrective measures:
- a. Submitted the DMR for December 2018 on January 21, 2019 (Conclusion of Law No. 4);
 - b. Began to compensate for the effects of manganese and perform duplicates for the dissolved oxygen analysis when analyzing effluent samples, as of August 1, 2019 (Conclusion of Law No. 11);
 - c. Sufficiently calibrated the Facility’s secondary flow measuring device (Siemens Milltronics OCM III) on June 24, 2020 (Conclusion of Law No. 3); and

- d. Installed a grease trap in the Facility's restaurant kitchen on or by November 6, 2020 (Conclusion of Law No. 8).

CONCLUSIONS OF LAW

1. 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.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0014981001, Operational Requirement No. 1 and Other Requirement No. 9.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to calibrate as often as necessary to ensure accuracy but not less than annually all automatic flow measuring or recording devices and all totalizing meters for measuring flow, in violation of 30 TEX. ADMIN. CODE §§ 217.33(a) and 305.125(1), and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirement No. 5.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to timely submit monitoring results at 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. WQ0014981001, Monitoring and Reporting Requirement No. 1.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to report to the TCEQ in writing any effluent violation which deviates from the permitted effluent limitation by more than 40% within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirement No. 7.c.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to prevent the discharge of floating solids or visible foam in other than trace amounts, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0014981001, Effluent Limitation and Monitoring Requirement No. 4.
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to submit to the TCEQ Wastewater Permitting Section a summary submittal letter in accordance with 30 TEX. ADMIN. CODE § 217.6(c) as required in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirement No. 7.
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to route the wastewater generated from the restaurant kitchen through a grease trap, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirement No. 8.
9. As evidenced by Finding of Fact No. 2.h., Respondent failed to submit quarterly progress reports regarding the repair or construction of treatment units necessary to maintain compliance with effluent limitations for TSS and *E. coli*, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0014981001, Other Requirement No. 10.
10. As evidenced by Finding of Fact No. 2.i., Respondent failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0014981001, Permit Condition No. 2.d.
11. As evidenced by Finding of Fact No. 2.j., Respondent failed to properly analyze effluent samples according to the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, 319.9(d), and 319.11(c), and TPDES Permit No. WQ0014981001, Monitoring and Reporting Requirement No. 2.a.

12. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
13. An administrative penalty in the amount of forty-seven thousand one hundred thirty-eight dollars (\$47,138.00) 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 one thousand three hundred twenty-three dollars (\$1,323.00) of the penalty. The remaining amount of forty-five thousand eight hundred fifteen dollars (\$45,815.00) shall be paid in thirty-five (35) monthly payments of one thousand three hundred nine dollars (\$1,309.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is 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 and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all 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. 13 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 not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: KB FOUNDATION OF TEXAS, Docket No. 2019-1493-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. Implement procedures and conduct employee training to ensure:
 - (1) The necessary process control tests are performed to effectively operate the Facility, in accordance with TPDES Permit No. WQ0014981001 and TCEQ Regulatory Guidance RG-002, concerning Process Control Tests for Activated Sludge Domestic Wastewater Treatment Facilities (Conclusion of Law No. 2);
 - (2) Preparation and proper submission of quarterly progress reports for the repair or construction of treatment units necessary to maintain compliance with effluent limitations for TSS and *E. coli* (Conclusion of Law No. 9); and

- (3) Reporting to the TCEQ Corpus Christi Regional Office and Enforcement Division of any effluent violation that deviates from the permitted effluent limitation by more than 40%, within 5 working days of becoming aware of the noncompliance (Conclusion of Law No. 5); and
- ii. Submit a summary transmittal letter, in accordance with 30 TEX. ADMIN. CODE § 217.6(c), to the TCEQ Wastewater Permitting Section at the following address (Conclusion of Law No. 7):
 - Texas Commission on Environmental Quality
Water Quality Division, MC 148
Plans and Specification Review
P.O. Box 13087
Austin, Texas 78711-3087
- b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.e., to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii.
- c. Within 60 days after the effective date of this Order:
 - i. Install scum baffles and a means for scum collection and disposal on the clarifier unit, and level the clarifier effluent weir (Conclusion of Law No. 2);
 - ii. Remove the excess sludge and algae from the clarifier and the chlorine contact chamber (Conclusion of Law No. 2);
 - iii. Begin use of chlorination tablets that are EPA-approved and labeled for wastewater disinfection (Conclusion of Law No. 2);
 - iv. Develop and implement a solids management plan and schedule that includes regular examination of wastewater solids within the Facility, process control testing, and the regular removal of solids to prevent the discharge of solids, sludge, and grease (Conclusions of Law Nos. 2, 6, and 10); and
 - v. Remove and properly dispose of the sludge around the Outfall 001 discharge pipe and from the receiving ditch (Conclusion of Law No. 10).
- d. Within 75 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.e., to demonstrate compliance with Ordering Provisions Nos. 2.c.i. through 2.c.v.
- e. 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
500 North Shoreline Boulevard, Suite 500
Corpus Christi, Texas 78401-0318

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by 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 the TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by the 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 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Erin E. Chamallop

5-2-22

For the Executive Director

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
- The TCEQ seeking other relief as authorized by law.

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

Karam Boulos

Signature - Karam Boulos, Director
KB FOUNDATION OF TEXAS
2925 Clifford Street
Harlingen, Texas 78550

2/10/2022

Date

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