

**HWY 300 LLC**  
**RN103065041**  
**Docket No. 2019-1578-MWD-E**

**Order Type:**

Default Order (SOAH preliminary hearing)

**Media:**

MWD

**Small Business:**

Yes

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

approximately 1,700 feet due east of a point on State Highway 300 that is approximately 2,900 feet north of the intersection of Gregg Tex Road and State Highway 300 and 3,500 feet south of the intersection of State Highway 300 and Farm-to-Market Road 1844, Gregg County

**Type of Operation:**

wastewater treatment facility and disposal site

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$2,832.68
Past-Due Fees:	\$10,581.21
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:**

February 24, 2023

**Comments Received:**

None

**Penalty Information**

<b>Total Penalty Assessed:</b>	\$136,500
<b>Total Paid to General Revenue:</b>	\$0
<b>Total Due to General Revenue:</b>	\$136,500

**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):**

August 5, 2019

## Complaint Information:

Alleged sewage was discharging from a pipe behind (east of) the mobile home park.

**Date(s) of Investigation:**

August 9, 2019, through August 23, 2019; October 30, 2019;  
 December 19, 2019, through December 20, 2019

**Date(s) of NOV(s):**

N/A

**Date(s) of NOE(s):**

October 22, 2019; January 10, 2020

**HWY 300 LLC**  
**RN103065041**  
**Docket No. 2019-1578-MWD-E**

**Violation Information**

1. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1)].
2. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1)].
3. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1)].
4. Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.65].
5. Failed to pay Consolidated Water Quality fees and associated late fees for TCEQ Financial Administration Account No. 23005554 for Fiscal Years 2010 through 2016 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 21.4].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Cease the unauthorized discharge of sewage from the rusted weld seam on the north wall of the Facility and from the aeration basin; and
  - b. Until such time that authorization to operate is obtained or until 90 days after the effective date, whichever is earlier, comply with the permit limits and conditions of expired TCEQ Permit No. WQ0014395001.

Respond completely and adequately to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.
2. Within 15 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. and 1.b.
3. Within 30 days:
  - a. Remove and properly dispose of the sewage solids from the ground surrounding the cleanout located on the east side of the mobile home park, adjacent to Grace Creek, and disinfect the affected areas;
  - b. Remove and properly dispose of the sewage solids from the ground surrounding the rusted weld seam on the north wall of the Facility and the aeration basin, and disinfect the affected areas;
  - c. Remove and properly dispose of the sewage solids from the ground surrounding the uncapped pipe located in the woods at the far southeast corner of the property, and disinfect the affected areas; and
  - d. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 23005554.
4. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 3.a. through 3.d.
5. Within 90 days submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

HWY 300 LLC

RN103065041

Docket No. 2019-1578-MWD-E

**Litigation Information**

**Date Petition(s) Filed:** April 6, 2021  
**Date(s) of Service:** April 9, 2021  
**Date Answer(s) Filed:** April 28, 2021  
**SOAH Referral Date:** August 31, 2022  
**Hearing Date(s):**  
Preliminary hearing: November 10, 2022 (defaulted)

**Contact Information**

**TCEQ Attorneys:** Clayton Smith, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363  
**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575  
**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, (210) 403-4016  
**TCEQ Regional Contact:** Ross Morgan, Tyler Regional Office, (903) 535-5100  
**Respondent Contact:** Paul Hodge, HWY 300 LLC, 25026 Aughton, Spring, Texas 77389;  
James W. Hurley, Manager, HWY 300 LLC, 5734 State Highway 300, Lot 74, Longview, Texas 75604  
**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

## TCEQ

<b>DATES</b>	<b>Assigned</b>	28-Oct-2019	<b>Screening</b>	30-Oct-2019	<b>EPA Due</b>	
	<b>PCW</b>	6-Nov-2019				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	HWY 300 LLC				
<b>Reg. Ent. Ref. No.</b>	RN103065041				
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58531	<b>No. of Violations</b>	4
<b>Docket No.</b>	2019-1578-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Alejandro Laje
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$56,250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	20.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$11,250
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<b>Notes</b>	Enhancement for one agreed order containing a denial of liability.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$633	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$12,275	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$67,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$67,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$67,500
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$67,500
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<b>Screening Date</b>	30-Oct-2019	<b>Docket No.</b>	2019-1578-MWD-E	<b>PCW</b>
<b>Respondent</b>	HWY 300 LLC			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	58531			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN103065041			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Alejandro Laje			

### 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> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 20%

**>> 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**

<b>Compliance History Notes</b>	Enhancement for one agreed order containing a denial of liability.
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**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 20%

**Screening Date** 30-Oct-2019 **Docket No.** 2019-1578-MWD-E **PCW**  
**Respondent** HWY 300 LLC *Policy Revision 4 (April 2014)*  
**Case ID No.** 58531 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN103065041  
**Media** Water Quality  
**Enf. Coordinator** Alejandro Laje

**Violation Number** 1  
**Rule Cite(s)** Tex. Water Code § 26.121(a)(1)  
**Violation Description**  
 Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, at least three inches of sewage solids covered the ground surrounding a cleanout located on the east side of the mobile home park adjacent to Grace Creek and the discharge had cut a path into the banks entering Grace Creek. As a result, Grace Creek was black with sludge, a grey slime or biofilm lined the creek below the surface water level and just below the biofilm layer was black septic sludge. Additionally, Tubifex worms were observed on the bottom of Grace Creek indicating that the sludge had been in the creek for a significant amount of time.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	X			30.0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					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** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 3 82 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$22,500

Three monthly events are recommended, calculated from the date the discharge was documented (August 9, 2019) to the screening date (October 30, 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** \$22,500

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

Estimated EB Amount \$28 Violation Final Penalty Total \$27,000

**This violation Final Assessed Penalty (adjusted for limits)** \$27,000

## Economic Benefit Worksheet

**Respondent** HWY 300 LLC  
**Case ID No.** 58531  
**Reg. Ent. Reference No.** RN103065041  
**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				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	\$500	9-Aug-2019	22-Sep-2020	1.12	\$28	n/a	\$28
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	9-Aug-2019	9-Aug-2019	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated Remediation/Disposal cost to remove and properly dispose of the sewage solids from the ground surrounding the cleanout located on the east side of the mobile home park, adjacent to Grace Creek and disinfect the affected areas. Date required is the investigation date and the final date is the estimated date of compliance.

Estimated cost to cease the unauthorized discharge of sewage from the cleanout located on the east side of the mobile home park, adjacent to Grace Creek. Date Required is the initial investigation date and the 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

\$525

**TOTAL**

\$28



<b>Screening Date</b>	30-Oct-2019	<b>Docket No.</b>	2019-1578-MWD-E	<b>PCW</b>		
<b>Respondent</b>	HWY 300 LLC				Policy Revision 4 (April 2014)	
<b>Case ID No.</b>	58531				PCW Revision March 26, 2014	
<b>Reg. Ent. Reference No.</b>	RN103065041					
<b>Media</b>	Water Quality					
<b>Enf. Coordinator</b>	Alejandro Laje					
<b>Violation Number</b>	2					
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a)(1)					
<b>Violation Description</b>	Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, untreated sewage was leaking from a rusted weld seam on the north wall of the Facility, flowing across the ground, adjacent to Grace Creek. Additionally, untreated sewage was overflowing the aeration basin and discharging onto the ground adjacent to Grace Creek.					
				<b>Base Penalty</b>	\$25,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>						
<b>OR</b>		<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor		
	Actual		X			
Potential					<b>Percent</b> <span style="border: 1px solid black;">15.0%</span>	
<b>&gt;&gt; Programmatic Matrix</b>						
	Falsification	Major	Moderate	Minor		
						<b>Percent</b> <span style="border: 1px solid black;">0.0%</span>
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.					
				<b>Adjustment</b>	\$21,250	
					\$3,750	
<b>Violation Events</b>						
	Number of Violation Events	3		82	Number of violation days	
		daily				
		weekly				
		monthly	X			
		quarterly				
		semiannual				
		annual				
		single event				
				<b>Violation Base Penalty</b>	\$11,250	
	Three monthly events are recommended, calculated from the date the discharge was documented (August 9, 2019) to the screening date (October 30, 2019).					
<b>Good Faith Efforts to Comply</b>						
		<b>0.0%</b>		<b>Reduction</b>	\$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.					
				<b>Violation Subtotal</b>	\$11,250	
<b>Economic Benefit (EB) for this violation</b>						
<b>Statutory Limit Test</b>						
	<b>Estimated EB Amount</b>	\$577		<b>Violation Final Penalty Total</b>	\$13,500	
				<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$13,500	

## Economic Benefit Worksheet

**Respondent** HWY 300 LLC  
**Case ID No.** 58531  
**Reg. Ent. Reference No.** RN103065041  
**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	\$1,000	9-Aug-2019	22-Sep-2020	1.12	\$56	n/a	\$56
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	9-Aug-2019	23-Aug-2020	1.04	\$521	n/a	\$521

**Notes for DELAYED costs**

Estimated Remediation/Disposal cost to remove and properly dispose of the sewage solids from the ground surrounding the rusted weld seam on the north wall of the Facility and the aeration basin, and disinfect the affected areas. Date required is the investigation date and the final date is the estimated date of compliance.

Estimated Other cost to cease the unauthorized discharge of sewage from the rusted weld seam on the north wall of wastewater treatment facility and from the aeration basin. Date Required is the initial investigation date and the 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

\$11,000

**TOTAL**

\$577

<b>Screening Date</b>	30-Oct-2019	<b>Docket No.</b>	2019-1578-MWD-E	<b>PCW</b>
<b>Respondent</b>	HWY 300 LLC			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	58531			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN103065041			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Alejandro Laje			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

**>> Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

**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	X	

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** HWY 300 LLC  
**Case ID No.** 58531  
**Reg. Ent. Reference No.** RN103065041  
**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	\$500	9-Aug-2019	22-Sep-2020	1.12	\$28	n/a	\$28
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	9-Aug-2019	9-Aug-2019	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated Remediation/Disposal cost to remove and properly dispose of the sewage solids from the ground surrounding the uncapped pipe located in the woods at the far southeast corner of the property and disinfect the affected areas. Date required is the investigation date and the final date is the estimated date of compliance.

Estimated Other cost to cease the unauthorized discharge of sewage from the uncapped pipe located in the woods at the far southeast corner of the property by closing the valve from the final clarifier tank and removing the pipe. Date Required is the initial investigation date and the 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**

<b>Approx. Cost of Compliance</b>	\$750	<b>TOTAL</b>	\$28
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<b>Screening Date</b>	30-Oct-2019	<b>Docket No.</b>	2019-1578-MWD-E	<b>PCW</b>
<b>Respondent</b>	HWY 300 LLC			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	58531			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN103065041			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Alejandro Laje			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

**>> Programmatic Matrix**

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

**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 type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

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

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

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** HWY 300 LLC  
**Case ID No.** 58531  
**Reg. Ent. Reference No.** RN103065041  
**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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

### 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

N/A

Approx. Cost of Compliance

\$0

**TOTAL**

\$0



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

## TCEQ

<b>DATES</b>	<b>Assigned</b>	13-Jan-2020			
	<b>PCW</b>	13-Jan-2020	<b>Screening</b>	13-Jan-2020	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	HWY 300 LLC				
<b>Reg. Ent. Ref. No.</b>	RN103065041				
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58531	<b>No. of Violations</b>	1
<b>Docket No.</b>	2019-1578-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Alejandro Laje
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$57,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>20.0%</b>	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$11,500</b>
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<b>Notes</b>	Enhancement for one agreed order containing a denial of liability.
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<b>Culpability</b>	No	<b>0.0%</b>	Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b>	Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$6,068	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$25,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$69,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	Adjustment	<b>\$0</b>
---	-------------	------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$69,000</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$69,000</b>
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<b>DEFERRAL</b>	<b>0.0%</b>	Reduction	<b>Adjustment</b>	<b>\$0</b>
-----------------	-------------	-----------	-------------------	------------

Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	<b>\$69,000</b>
------------------------	-----------------

<b>Screening Date</b>	13-Jan-2020	<b>Docket No.</b>	2019-1578-MWD-E	<b>PCW</b>
<b>Respondent</b>	HWY 300 LLC			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	58531			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN103065041			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Alejandro Laje			

### 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> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 20%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one agreed order containing a denial of liability.

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

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 20%



<b>Screening Date</b>	13-Jan-2020	<b>Docket No.</b>	2019-1578-MWD-E	<b>PCW</b>
<b>Respondent</b>	HWY 300 LLC			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	58531			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN103065041			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Alejandro Laje			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
<input type="text" value="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 checked="" type="text" value="X"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

**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**

**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** HWY 300 LLC  
**Case ID No.** 58531  
**Reg. Ent. Reference No.** RN103065041  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	\$25,000	1-Apr-2016	6-Feb-2021	4.85	\$6,068	n/a	\$6,068
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated Permit cost to prepare and submit an application and obtain authorization to discharge wastewater. Date required is the permit expiration date and the 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

\$25,000

**TOTAL**

\$6,068

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 CN603318437, RN103065041, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

**Customer, Respondent, or Owner/Operator:** CN603318437, HWY 300 LLC      **Classification:** SATISFACTORY      **Rating:** 3.75

**Regulated Entity:** RN103065041, HWY 300      **Classification:** SATISFACTORY      **Rating:** 3.75

**Complexity Points:** 3      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** approximately 1,700 feet due east of a point on State Highway 300 which is approximately 2,900 feet north of the intersection of Gregg Tex Road and State Highway 300 and 3,500 feet south of the intersection of State Highway 300 and Farm-to-Market Road 1844 in Gregg County, Texas

**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):**

**WASTEWATER PERMIT** WQ0014395002

**Compliance History Period:** September 01, 2014 to August 31, 2019      **Rating Year:** 2019      **Rating Date:** 09/01/2019

**Date Compliance History Report Prepared:** January 13, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 13, 2015 to January 13, 2020

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

**Name:** Alejandro Laje

**Phone:** (512) 239-2547

**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

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

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

- 1      Effective Date: 08/16/2016      ADMINORDER 2016-0403-MWD-E (1660 Order-Agreed Order With Denial)  
Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: TCEQ Permit No. WQ0014395001 PERMIT  
Description: Failed to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

- Item 2      July 24, 2017      (1422254)
- Item 3      November 16, 2017      (1449290)
- Item 4      November 20, 2019      (1610266)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

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

N/A

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

N/A

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

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HWY 300 LLC;  
RN103065041**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2019-1578-MWD-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 5, 7, and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is HWY 300 LLC ("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 and disposal site located approximately 1,700 feet due east of a point on State Highway 300 that is approximately 2,900 feet north of the intersection of Gregg Tex Road and State Highway 300 and 3,500 feet south of the intersection of State Highway 300 and Farm-to-Market Road 1844 in Gregg County, Texas (the "Facility"). The Facility is near or adjacent to water in the state, as defined in TEX. WATER CODE § 26.001(5).
2. After an investigation conducted from August 9, 2019, through August 23, 2019, and record reviews conducted on October 30, 2019, and from December 19, 2019, through December 20, 2019, TCEQ staff documented that Respondent:
  - a. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, at least three inches of sewage solids covered the ground surrounding a cleanout located on the east side of the mobile home park adjacent to Grace Creek, and the discharge had cut a path into the banks entering Grace Creek. As a result, Grace Creek was black with sludge, a grey slime or biofilm lined the creek below the surface water level, and just below the biofilm layer was black septic sludge. Additionally, Tubifex worms were observed on the bottom of Grace Creek, indicating that the sludge had been in the creek for a significant amount of time;
  - b. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, untreated sewage was leaking from a rusted weld seam on the north wall of the Facility, flowing across the ground, adjacent to Grace Creek. Additionally, untreated sewage was overflowing the aeration basin and discharging onto the ground adjacent to Grace Creek;
  - c. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, an uncapped pipe located in the woods at the far southeast corner of the property was discharging untreated sewage and maggots directly from the final clarifier tank onto the ground, discharging into Grace Creek;

- d. Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state. Specifically, TCEQ Permit No. WQ0014395001 expired on April 1, 2016, and Respondent continued to operate the wastewater treatment facility without authorization; and
  - e. Failed to pay Consolidated Water Quality fees and associated late fees for TCEQ Financial Administration Account No. 23005554 for Fiscal Years 2010 through 2016.
3. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of HWY 300 LLC” (the “EDPRP”) in the TCEQ Chief Clerk’s office on April 6, 2021.
  4. Respondent filed an answer requesting a hearing on April 28, 2021, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on August 31, 2022.
  5. On October 10, 2022, the TCEQ Chief Clerk mailed notice of the November 10, 2022 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
  6. On November 10, 2022, the Administrative Law Judge (“ALJ”) convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ find that Respondent was served with proper notice of the hearing and moved for dismissal and remand of the matter to the Executive Director so that a Default Order may be entered by the Commission.
  7. On November 15, 2022, the ALJ entered a finding that Respondent was served with proper notice of the hearing and granted the Executive Director’s motion for dismissal. On December 13, 2022, SOAH remanded the matter to the Executive Director.

#### 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 chs. 5 and 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to maintain authorization to discharge wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.65.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to pay Consolidated Water Quality fees and associated late fees for TCEQ Financial Administration Account No. 23005554 for Fiscal Years 2010 through 2016, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 21.4.
7. As evidenced by Finding of Fact No. 4, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.

8. As evidenced by Finding of Fact No. 5, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.405, 39.413, 39.425, and 80.6.
9. As evidenced by Findings of Fact Nos. 6 and 7, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(e), the ALJ dismissed the case from SOAH's docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of one hundred thirty-six thousand five hundred dollars (\$136,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of one hundred thirty-six thousand five hundred dollars (\$136,500.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: HWY 300 LLC; Docket No. 2019-1578-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

3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order:
    - i. Cease the unauthorized discharge of sewage from the rusted weld seam on the north wall of the Facility and from the aeration basin; and
    - ii. Until such time that authorization to operate is obtained or until 90 days after the effective date of this Order, whichever is earlier, comply with the permit limits and conditions of expired TCEQ Permit No. WQ0014395001.

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.

- b. Within 15 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.f., to demonstrate compliance with Ordering Provision Nos. 3.a.i. and 3.a.ii.
- c. Within 30 days after the effective date of this Order:
- i. Remove and properly dispose of the sewage solids from the ground surrounding the cleanout located on the east side of the mobile home park, adjacent to Grace Creek, and disinfect the affected areas;
  - ii. Remove and properly dispose of the sewage solids from the ground surrounding the rusted weld seam on the north wall of the Facility and the aeration basin and disinfect the affected areas;
  - iii. Remove and properly dispose of the sewage solids from the ground surrounding the uncapped pipe located in the woods at the far southeast corner of the property and disinfect the affected areas; and
  - iv. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 23005554, as required by TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 21.4. The payment shall be submitted 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
- d. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.f., to demonstrate compliance with Ordering Provision Nos. 3.c.i. through 3.c.iv.
- e. Within 90 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.f., that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

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

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

and:



Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. 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 Enforcement Division at the address listed above.
7. 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF JESSE CLAYTON SMITH

“On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of HWY 300 LLC’ (the ‘EDPRP’) was filed in the TCEQ Chief Clerk’s office on April 6, 2021.

Respondent filed an answer requesting a hearing on April 28, 2021, and the matter was referred to the State Office of Administrative Hearings (‘SOAH’) on August 31, 2022. On October 10, 2022, the TCEQ Chief Clerk mailed notice of the November 10, 2022 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on November 10, 2022. At that hearing, I requested that the Administrative Law Judge (‘ALJ’) enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV’T CODE § 2001.056.

The ALJ granted the Executive Director’s motion for dismissal in his Default Dismissal Order, issued on November 15, 2022. SOAH remanded the case to the Executive Director on December 13, 2022, so that TCEQ may dispose of this case on a default basis.”

"My name is Jesse Clayton Smith, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 17th day of January, 2023

A handwritten signature in black ink, appearing to read "Jesse Clayton Smith".

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Declarant