

Executive Summary – Enforcement Matter – Case No. 61427

YES Estates TX, LLC

RN102916574

Docket No. 2021-1329-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

The Estates Partners WWTP, located approximately 2,500 feet northwest of the community of Culleoka, immediately west of Farm-to-Market Road 982 and north of Culleoka Baptist Church, Collin County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 2, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,105

Amount Deferred for Expedited Settlement: \$3,621

Total Paid to General Revenue: \$14,484

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 24, 2021

Date(s) of NOE(s): September 10, 2021

Executive Summary – Enforcement Matter – Case No. 61427

YES Estates TX, LLC

RN102916574

Docket No. 2021-1329-MWD-E

Violation Information

1. Failed to comply with permitted effluent limitations for ammonia nitrogen, total suspended solids, and daily average flow [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0015198001, Interim Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to collect and analyze effluent samples at the intervals specified in the permit. Specifically, the Respondent did not collect and analyze a sample for pH and dissolved oxygen for the month of October 2020 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0015198001, Interim Effluent Limitations and Monitoring Requirements Nos. 3 and 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented a corrective measure by developing and implementing procedures to ensure samples are collected and analyzed in accordance with permit requirements by October 7, 2021.

Technical Requirements:

The Order will require the Respondent to, within 130 days, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0015198001, including specific corrective actions that were implemented to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Alejandro Laje, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2547; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Karen Hamilton, Chief Operating Officer, YES Estates TX, LLC, 5050 South Syracuse Street, Suite 1200, Denver, Colorado 80237

Evy Guajardo, Regional Manager, YES Estates TX, LLC, 5050 South Syracuse Street, Suite 1200, Denver, Colorado 80237

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	27-Sep-2021	Screening	1-Oct-2021	EPA Due	
	PCW	4-Oct-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	YES Estates TX, LLC
Reg. Ent. Ref. No.	RN102916574
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61427	No. of Violations	2
Docket No.	2021-1329-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie Frederick
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	45.0%	Adjustment	Subtotals 2, 3, & 7	\$5,625
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Notes	Enhancement for nine months of self-reported effluent violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$125
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,938	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$25,350	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.6%	Adjustment	\$105
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost associated with Violation No. 2.
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Final Penalty Amount	\$18,105
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,105
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,621
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$14,484
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Screening Date 1-Oct-2021

Docket No. 2021-1329-MWD-E

PCW

Respondent YES Estates TX, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 61427

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102916574

Media Water Quality

Enf. Coordinator Stephanie Frederick

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>)	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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) 45%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for nine months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 45%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 45%

Screening Date 1-Oct-2021 **Docket No.** 2021-1329-MWD-E **PCW**
Respondent YES Estates TX, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 61427 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN102916574
Media Water Quality
Enf. Coordinator Stephanie Frederick

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0015198001, Interim Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Flow and total suspended solids were also considered. 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 \$21,250

\$3,750

Violation Events

Number of Violation Events 3 124 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended for the quarters containing the months of August and December 2020, and January and March 2021.

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 \$11,250

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

Estimated EB Amount \$2,829 **Violation Final Penalty Total** \$16,408

This violation Final Assessed Penalty (adjusted for limits) \$16,408

Economic Benefit Worksheet

Respondent YES Estates TX, LLC
Case ID No. 61427
Reg. Ent. Reference No. RN102916574
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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25,000	31-Aug-2020	5-Dec-2022	2.26	\$2,829	n/a	\$2,829

Notes for DELAYED costs

Estimated Other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, 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

\$2,829

Screening Date 1-Oct-2021 **Docket No.** 2021-1329-MWD-E **PCW**
Respondent YES Estates TX, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 61427 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN102916574
Media Water Quality
Enf. Coordinator Stephanie Frederick

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0015198001, Interim Effluent Limitations and Monitoring Requirements Nos. 3 and 6
Violation Description Failed to collect and analyze effluent samples at the intervals specified in the permit. Specifically, the Respondent did not collect and analyze a sample for pH and dissolved oxygen for the month of October 2020.

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 31 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 10.0% Reduction \$125

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes The Respondent achieved compliance on October 7, 2021, after the Notice of Enforcement dated September 10, 2021.

Violation Subtotal \$1,125

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

Estimated EB Amount \$109 **Violation Final Penalty Total** \$1,697

This violation Final Assessed Penalty (adjusted for limits) \$1,697

Economic Benefit Worksheet

Respondent YES Estates TX, LLC
Case ID No. 61427
Reg. Ent. Reference No. RN102916574
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	\$250	24-Jun-2021	7-Oct-2021	0.29	\$4	n/a	\$4
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 Training/Sampling cost to develop and implement procedures to ensure samples are collected and analyzed in accordance with permit requirements. The Date Required is the record review 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)	\$100	31-Oct-2020	1-Oct-2021	0.92	\$5	\$100	\$105

Notes for AVOIDED costs

Estimated avoided cost to collect and analyze effluent samples. The Date Required is the initial date of noncompliance, and the Final Date is the screening date.

Approx. Cost of Compliance

\$350

TOTAL

\$109

YES Estates TX, LLC
 TPDES Permit No. WQ0015198001
 Docket No. 2021-1329-MWD-E
 Case No. 61427

Effluent Violation Table					
Monitoring Period	Ammonia Nitrogen			Flow	TSS
	Daily Avg. Conc. Limit = 3 mg/L	Single Grab Conc. Limit = 15 mg/L	Daily Avg. Load. Limit = 0.63 lbs/day	Daily Avg. Limit = 0.025 MGD	Daily Avg. Conc. Limit = 15 mg/L
August 2020	9.83	39	0.82	c	c
December 2020	10.56	27	0.836	c	c
January 2021	c	c	c	0.4	c
March 2021	c	c	c	c	21.64

Avg. = average
 mg/L = milligrams per liter
 lbs/day = pounds per day
 TSS = total suspended solids

Conc. = concentration
 Load. = loading
 MGD = million gallons per day
 c = compliant

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Compliance History Report

Compliance History Report for CN605549633, RN102916574, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605549633, YES Estates TX, LLC **Classification:** SATISFACTORY **Rating:** 2.91

Regulated Entity: RN102916574, THE ESTATES PARTNERS WWTP **Classification:** SATISFACTORY **Rating:** 2.91

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: Approximately 2,500 feet northwest of the community of Culleoka, immediately west of Farm-to-Market Road 982 and north of Culleoka Baptist Church in Collin County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER PERMIT WQ0015198001 **WASTEWATER EPA ID** TX0135020

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: February 11, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 11, 2017 to February 11, 2022

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

Name: Stephanie Frederick **Phone:** (512) 239-1001

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? Clayton Properties Group, Inc. OWNER since 8/30/2001
YES Estates TX, LLC OWNER since 7/19/2018
- 4) Who was/were the prior owner(s)/operator(s)? THE ESTATES PARTNERS LLC, OWNER, 4/7/2016 to 7/19/2018

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	February 14, 2017	(1406396)	Item 9	October 20, 2017	(1458305)
Item 2	March 09, 2017	(1413518)	Item 10	November 20, 2017	(1463750)
Item 3	April 11, 2017	(1419962)	Item 11	December 20, 2017	(1470194)
Item 4	May 22, 2017	(1427602)	Item 12	January 19, 2018	(1476904)
Item 5	June 14, 2017	(1433616)	Item 13	February 16, 2018	(1489035)
Item 6	July 19, 2017	(1442173)	Item 14	March 14, 2018	(1492685)
Item 7	August 09, 2017	(1445836)	Item 15	April 20, 2018	(1495999)
Item 8	September 20, 2017	(1452442)	Item 16	May 19, 2018	(1502976)

Item 17	June 20, 2018	(1510058)	Item 33	September 26, 2019	(1601801)
Item 18	July 20, 2018	(1516381)	Item 34	October 20, 2019	(1615578)
Item 19	August 15, 2018	(1522423)	Item 35	November 20, 2019	(1621381)
Item 20	August 30, 2018	(1512401)	Item 36	December 20, 2019	(1628717)
Item 21	September 20, 2018	(1529641)	Item 37	January 20, 2020	(1636335)
Item 22	October 19, 2018	(1535926)	Item 38	February 20, 2020	(1642953)
Item 23	November 20, 2018	(1543802)	Item 39	April 20, 2020	(1655824)
Item 24	December 20, 2018	(1547498)	Item 40	May 20, 2020	(1655823)
Item 25	January 19, 2019	(1566722)	Item 41	June 19, 2020	(1668913)
Item 26	February 19, 2019	(1566720)	Item 42	July 20, 2020	(1675860)
Item 27	March 20, 2019	(1566721)	Item 43	September 25, 2020	(1682653)
Item 28	April 19, 2019	(1574171)	Item 44	December 18, 2020	(1719284)
Item 29	May 20, 2019	(1587893)	Item 45	March 25, 2021	(1732357)
Item 30	June 20, 2019	(1587894)	Item 46	July 02, 2021	(1748731)
Item 31	July 19, 2019	(1595583)			
Item 32	September 20, 2019	(1608703)			

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: 03/31/2021 (1732358)
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: 04/30/2021 (1743467)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 05/31/2021 (1748729)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 4 Date: 06/30/2021 (1753964)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 5 Date: 07/31/2021 (1759317)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 6 Date: 08/31/2021 (1768719)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 7 Date: 09/30/2021 (1779907)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 8 Date: 10/31/2021 (1785961)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: 30 TAC Chapter 305, SubChapter F 305.125(1)
Failure to meet the limit for one or more permit parameter

9 Date: 11/30/2021 (1792950)
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
YES ESTATES TX, LLC
RN102916574

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2021-1329-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located approximately 2,500 feet northwest of the community of Culleoka, immediately west of Farm-to-Market Road 982 and north of Culleoka Baptist Church in Collin 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$18,105 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$14,484 of the penalty and \$3,621 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. 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.
9. The Executive Director recognizes that the Respondent implemented a corrective measure at the Facility by developing and implementing procedures to ensure samples are collected and analyzed in accordance with permit requirements by October 7, 2021.

II. ALLEGATIONS

During a record review conducted on June 24, 2021, an investigator documented that the Respondent:

1. Failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0015198001, Interim Effluent Limitations and Monitoring Requirements No. 1, as shown in the effluent violation table below:

Effluent Violation Table					
Monitoring Period	Ammonia Nitrogen			Flow	TSS
	Daily Avg. Conc. Limit = 3 mg/L	Single Grab Conc. Limit = 15 mg/L	Daily Avg. Load. Limit = 0.63 lbs/day	Daily Avg. Limit = 0.025 MGD	Daily Avg. Conc. Limit = 15 mg/L
August 2020	9.83	39	0.82	c	c
December 2020	10.56	27	0.836	c	c
January 2021	c	c	c	0.4	c
March 2021	c	c	c	c	21.64

Avg. = average

mg/L = milligrams per liter

lbs/day = pounds per day

TSS = total suspended solids

Conc. = concentration

Load. = loading

MGD = million gallons per day

c = compliant

2. Failed to collect and analyze effluent samples at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0015198001, Interim Effluent Limitations and Monitoring Requirements Nos. 3

and 6. Specifically, the Respondent did not collect and analyze a sample for pH and dissolved oxygen for the month of October 2020.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: YES Estates TX, LLC, Docket No. 2021-1329-MWD-E" to:

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

2. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0015198001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 the Respondent. The 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. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. 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.

9. 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


For the Executive Director

Date
12/5/2022

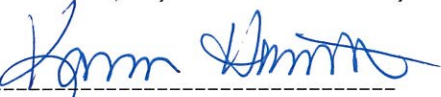
Date

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, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

10/28/2022

Date

Karen Hamilton

Name (Printed or typed)
Authorized Representative of
YES Estates TX, LLC

COO

Title

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