

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0199-MWD-E **TCEQ ID:** RN101524973 **CASE NO.:** 32610

**RESPONDENT NAME:** Katy Independent School District

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Mayde Creek JR &amp; SR High, approximately two miles west-northwest of the intersection of Barker-Cypress Road and Interstate Highway 10, approximately eight miles east of Katy, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203;                      Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Ms. Peggy Caruso, Assistant Director, Katy Independent School District, 20380 Franz Road, Katy, Texas 77449  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> December 12, 2006</p> <p><b>Date of NOE Relating to this Case:</b> January 23, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permit effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 12110001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$3,140</p> <p><b>Total Deferred:</b> \$628  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$2,512</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent achieved compliance with the permitted effluent limitations on September 30, 2006, by modifying the existing treatment facility to include the addition of a fine bubble aeration system and a fine step screen.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

<b>DATES</b>	<b>Assigned</b>	5-Feb-2007	<b>Screening</b>	9-Feb-2007	<b>EPA Due</b>	
	<b>PCW</b>	13-Feb-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Katy Independent School District
<b>Reg. Ent. Ref. No.</b>	RN101524973
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	32610	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2007-0199-MWD-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Heather Brister	
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 1	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **82%** Enhancement **Subtotals 2, 3, & 7**

**Notes**  
The Respondent self-reported 15 months of effluent violations and received one notice of violation (NOV) for a violation that is considered to be same or similar to those cited in this action, and one NOV for a violation that is not same or similar.

**Culpability** **No** **0%** Enhancement **Subtotal 4**

**Notes**  
The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **25%** Reduction **Subtotal 5**

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

**Notes**  
The Respondent became compliant with permitted effluent limitations on September 30, 2006, by modifying the existing treatment facility to include the addition of a fine bubble aeration system and a fine step screen.

**0%** Enhancement\* **Subtotal 6**   
\*Capped at the Total EB \$ Amount  
Total EB Amounts   
Approx. Cost of Compliance

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **20%** Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**  
Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 9-Feb-2007

Docket No. 2007-0199-MWD-E

PCW

Respondent Katy Independent School District

Policy Revision 2 (September 2002)

Case ID No. 32610

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101524973

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	16	80%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 82%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported 15 months of effluent violations and received one notice of violation (NOV) for a violation that is considered to be same or similar to those cited in this action, and one NOV for a violation that is not same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 9-Feb-2007

Docket No. 2007-0199-MWD-E

PCW

Respondent Katy Independent School District

Policy Revision 2 (September 2002)

Case ID No. 32610

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101524973

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. 12110001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6.

Violation Description Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on December 12, 2006, and as shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen (NH3-N), and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and Dissolved Oxygen were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels harmful to human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

123 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,685

Violation Final Penalty Total \$3,140

This violation Final Assessed Penalty (adjusted for limits) \$3,140

## Economic Benefit Worksheet

**Respondent** Katy Independent School District  
**Case ID No.** 32610  
**Reg. Ent. Reference No.** RN101524973  
**Media Water Quality**  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$147,000	31-Mar-2006	30-Sep-2006	0.5	\$3,685	n/a	\$3,685

Notes for DELAYED costs

Cost of the modification to the existing treatment facility to include a fine bubble aeration system and a fine step screen. The date required is the initial month of noncompliance and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$147,000	<b>TOTAL</b>	\$3,685
----------------------------	-----------	--------------	---------

**Effluent Limit Violation Table**

table rev.

<b>Respondent</b>	Katy Independent School District
<b>ID Number(s)</b>	TPDES Permit No. 12110001
<b>Docket Number</b>	2007-0199-MWD-E
<b>Enf. Coordinator</b>	Heather Brister

**Corresponds to Violation Number:** 1

<i>EFFLUENT PARAMETER</i>					
<i>Permit Limit</i>					
	Dissolved Oxygen Minimum 6.0 Milligrams per Liter (April - October)	Total Suspended Solids Daily Average Concentration 15 Milligrams per Liter	Total Suspended Solids Daily Average Loading 13 Pounds per Day	Ammonia Nitrogen Daily Average Concentration 2 Milligrams per Liter (April - October)	Ammonia Nitrogen Daily Average Loading 1.7 Pounds per Day (April - October)
<i>Month/Year</i>					
Mar-06	c	20.3	15.2	c	c
Apr-06	c	18.35	c	3.78	c
May-06	c	c	c	2.86	2.06
Aug-06	5.5	c	c	6.68	3.4

\*\*c = compliant



# Compliance History

Customer/Respondent/Owner-Operator:	CN600789093 Katy Independent School District	Classification: AVERAGE Rating: 2.68
Regulated Entity:	RN101524973 MAYDE CREEK JR & SR HIGH	Classification: AVERAGE Site Rating: 0.86
ID Number(s):	WASTEWATER	PERMIT WQ0012110001
	WASTEWATER	PERMIT TPDES0079201
	WASTEWATER	PERMIT TX0079201
	WASTEWATER LICENSING	LICENSE WQ0012110001
Location:	Located approximately two miles west-northwest of the intersection of Barker-Cypress Road and Interstate Highway 10, approximately eight miles east of the City of Katy in Harris County, Texas.	Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON	
Date Compliance History Prepared:	February 07, 2007	
Agency Decision Requiring Compliance History:	Enforcement	
Compliance Period:	February 07, 2002 to February 07, 2007	
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History		
Name:	Heather Brister	Phone: 512-239-1203

## Site Compliance History Components

- |  |     |
|--|-----|
| 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- |  |     |
|--|-----|
| A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. | N/A |
| B. Any criminal convictions of the state of Texas and the federal government.  | N/A |
| C. Chronic excessive emissions events.   | N/A |
| D. The approval dates of investigations. (CCEDS Inv. Track. No.)   |     |

- |    |            |          |
|----|------------|----------|
| 1  | 05/20/2003 | (60124)  |
| 2  | 06/28/2006 | (503326) |
| 3  | 02/28/2005 | (386476) |
| 4  | 06/28/2006 | (503327) |
| 5  | 03/07/2005 | (386477) |
| 6  | 06/28/2006 | (503328) |
| 7  | 11/15/2004 | (386478) |
| 8  | 12/13/2004 | (386479) |
| 9  | 01/24/2005 | (386480) |
| 10 | 02/25/2002 | (204905) |
| 11 | 04/19/2005 | (376055) |
| 12 | 03/05/2003 | (204906) |
| 13 | 03/25/2002 | (204908) |
| 14 | 03/28/2003 | (204909) |
| 15 | 08/11/2006 | (525700) |
| 16 | 08/11/2006 | (525701) |
| 17 | 04/25/2002 | (204913) |
| 18 | 08/11/2006 | (525702) |
| 19 | 04/09/2003 | (204914) |
| 20 | 08/11/2006 | (525703) |
| 21 | 09/07/2006 | (525704) |
| 22 | 09/20/2006 | (525705) |
| 23 | 05/24/2002 | (204917) |
| 24 | 06/24/2002 | (204920) |
| 25 | 07/12/2006 | (483726) |

26 10/21/2005 (432353)  
 27 07/22/2002 (204923)  
 28 08/12/2002 (204926)  
 29 09/26/2002 (204929)  
 30 10/23/2002 (204932)  
 31 01/29/2007 (533983)  
 32 12/04/2002 (204935)  
 33 05/17/2004 (360276)  
 34 06/18/2004 (360277)  
 35 07/23/2004 (360278)  
 36 12/19/2002 (204938)  
 37 09/24/2004 (360279)  
 38 01/21/2003 (204941)  
 39 12/05/2005 (437787)  
 40 03/08/2004 (315137)  
 41 03/29/2004 (315138)  
 42 04/22/2004 (315139)  
 43 05/29/2003 (315140)  
 44 06/20/2003 (315141)  
 45 04/26/2005 (424336)  
 46 04/26/2005 (424337)  
 47 07/11/2003 (315142)  
 48 05/19/2005 (424338)  
 49 08/22/2003 (315143)  
 50 09/30/2003 (315144)  
 51 06/23/2005 (424339)  
 52 10/21/2003 (315145)  
 53 07/28/2005 (424340)  
 54 11/19/2003 (315146)  
 55 09/01/2005 (445117)  
 56 01/02/2004 (315147)  
 57 10/27/2004 (445118)  
 58 10/07/2005 (476190)  
 59 01/26/2004 (315148)  
 60 10/27/2005 (476191)  
 61 12/12/2005 (476192)  
 62 04/10/2003 (24600)  
 63 06/28/2006 (503325)

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

Date:	<b>03/31/2006</b>	(525700)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>04/30/2006</b>	(525701)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>05/31/2006</b>	(525702)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>03/31/2003</b>	(204914)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

Date:	<b>08/31/2006</b>	(525705)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>04/09/2003</b>	(24600)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to ensure the flowmeter was accurately measuring the flow rate. A flowmeter accuracy check conducted at the time of the inspection indicated a margin of error of 27.45% between the recorded and the calculated flow rate values.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)			
Description:	Failure to maintain all of the required records/reports at the wastewater treatment plant.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a)[G] 30 TAC Chapter 319, SubChapter A 319.7(c)			
Description:	Failure to correctly perform chlorine analysis. Failure to correctly perform chlorine analysis.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)			
Description:	Failure to perform annual test on the back flow preventive device to the public water line into the wastewater treatment plant.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(g)[G]			
Description:	Failure to operate and maintain the aeration basin.			
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d)[G]			
Description:	Failure to operate and maintain the clarifier.			
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to maintain permitted minimum chlorine residual of 1.0 mg/l.			
Self Report?	NO		Classification	Moderate
Citation:	TWC Chapter 26 26.121(a)(1)			
Description:	Failure to properly dispose of bar screen wastes.			
Date:	<b>01/31/2004</b>	(315137)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>04/30/2003</b>	(315140)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>05/31/2003</b>	(315141)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>04/30/2005</b>	(424338)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

Date:	<b>04/13/2005</b>	(376055)		
Self Report?	NO		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to address the chronic blockage of the RAS line.			
Date:	<b>08/31/2003</b>	(315144)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>05/31/2005</b>	(424339)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>09/30/2003</b>	(315145)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>10/31/2003</b>	(315146)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>11/30/2003</b>	(315147)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	<b>08/31/2005</b>	(476190)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
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  
KATY INDEPENDENT SCHOOL  
DISTRICT  
RN101524973

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-0199-MWD-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Katy Independent School District ("Katy ISD") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Katy ISD appear before the Commission and together stipulate that:

1. Katy ISD owns and operates a wastewater treatment facility located approximately two miles west-northwest of the intersection of Barker-Cypress Road and Interstate Highway 10, approximately eight miles east of Katy in Harris County, Texas (the "Facility").
2. Katy ISD has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Katy ISD agree that the Commission has jurisdiction to enter this Agreed Order, and that Katy ISD is subject to the Commission's jurisdiction.
4. Katy ISD received notice of the violations alleged in Section II ("Allegations") on or about January 28, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Katy ISD of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Three Thousand One Hundred Forty Dollars (\$3,140) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Five Hundred Twelve Dollars (\$2,512) of the administrative penalty shall be conditionally offset by Katy ISD's completion of a Supplemental Environmental Project and Six Hundred Twenty-Eight Dollars (\$628) is deferred contingent upon Katy ISD's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Katy ISD fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Katy ISD to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Katy ISD have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Katy ISD achieved compliance with the permitted effluent limitations on September 30, 2006, by modifying the existing treatment facility to include the addition of a fine bubble aeration system and a fine step screen.
10. 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 Katy ISD has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, Katy ISD is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. 12110001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented in a record review conducted on December 12, 2006, and as shown in the following table:



<i>EFFLUENT PARAMETER</i>					
<i>Permit Limit</i>					
<i>Month/Year</i>	Dissolved Oxygen Minimum 6.0 Milligrams per Liter (April - October)	Total Suspended Solids Daily Average Concentration 15 Milligrams per Liter	Total Suspended Solids Daily Average Loading 13 Pounds per Day	Ammonia Nitrogen Daily Average Concentration 2 Milligrams per Liter (April - October)	Ammonia Nitrogen Daily Average Loading 1.7 Pounds per Day (April - October)
Mar-06	c	20.3	15.2	c	c
Apr-06	c	18.35	c	3.78	c
May-06	c	c	c	2.86	2.06
Aug-06	5.5	c	c	6.68	3.4

\*\*\* c = compliant

### III. DENIALS

Katy ISD generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Katy ISD pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Katy ISD's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Katy Independent School District, Docket No. 2007-0199-MWD-E" to:

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



2. Katy ISD shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Five Hundred Twelve Dollars (\$2,512) of the assessed administrative penalty shall be offset with the condition that Katy ISD implement the SEP defined in Attachment A, incorporated herein by reference. Katy ISD's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon Katy ISD. Katy ISD is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Katy ISD fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Katy ISD's failure to comply is not a violation of this Agreed Order. Katy ISD shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Katy ISD shall notify the Executive Director within seven days after Katy ISD becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Katy ISD shall be made in writing to the Executive Director. Extensions are not effective until Katy ISD receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Katy ISD in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Katy ISD, or three days after the date on which the Commission mails notice of the Order to Katy ISD, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



Katy Independent School District  
DOCKET NO. 2007-0199-MWD-E  
Page 5

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Jill Szellin*  
For the Executive Director

8/23/2007  
Date

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

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

*Leggy Caruso*  
Signature

5/15/2007  
Date

Leggy Caruso  
Name (Printed or typed)  
Authorized Representative of  
Katy Independent School District

Ast Dir  
Title

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



Attachment A

Docket Number: 2007-0199-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Katy Independent School District

**Payable Penalty Amount:** Two Thousand Five Hundred Twelve Dollars (\$2,512)

**SEP Amount:** Two Thousand Five Hundred Twelve Dollars (\$2,512)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

**Location of SEP:** Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:



Katy Independent School District  
Agreed Order – Attachment A

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Attachment A

Docket Number: 2007-0199-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Katy Independent School District

**Payable Penalty Amount:** Two Thousand Five Hundred Twelve Dollars (\$2,512)

**SEP Amount:** Two Thousand Five Hundred Twelve Dollars (\$2,512)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

**Location of SEP:** Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council  
Houston-Galveston AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:



Katy Independent School District  
Agreed Order – Attachment A

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

